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16 Attorneys for Trustee/Third Party Plaintiff

12 UNITED STATES BANKRUPTCY COURT
13 FOR THE DISTRICT OF NEVADA

14 * * * * *

15 IN RE:

Case No.: BK-12-51014-btb
(Chapter 7)

16 NATHAN L. TOPOL, an individual,
17 Debtor.

18 CITIMORTGAGE, INC., a corporation,
19 Plaintiff,

Adversary Case No. 15-05015-gwz

20 v.

21 W. DONALD GIESEKE, Trustee of the
22 NATHAN L. TOPOL bankruptcy estate, et
23 al.
24 Defendants.

**TRUSTEE'S STATEMENT OF
UNDISPUTED FACTS IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
OR PARTIAL SUMMARY JUDGMENT
AGAINST CITIMORTGAGE, INC.'S
COMPLAINT**

25 W. DONALD GIESEKE, Trustee of the
26 NATHAN L. TOPOL bankruptcy estate

27 Third Party Plaintiff,
28 v.

Hrg. Date: December 15, 2016
Hrg. Time: 2:00 p.m.
Est. Time: 2 hours
Set By: Calendar Clerk

1 STEWART TITLE OF PLACER, a
2 California corporation, fka SIERRA
3 VALLEY TITLE COMPANY, and its
4 successors,

5
6 Third Party Defendant.
7 _____/

8 COMES NOW Defendant/Third Party Plaintiff W. Donald Gieseke ("Trustee"), by and
9 through his attorneys, STEPHEN R. HARRIS, ESQ. of HARRIS LAW PRACTICE LLC, and
10 JOHN ECHEVERRIA, ESQ. of ECHEVERRIA LAW OFFICE, and files the following
11 Statement of Undisputed Facts pursuant to LR 7056(a).

12 1. Certain real property located at 4250 W. Lake Blvd., Homewood, California
13 96141 ("Real Property") was 11 U.S.C. §541 property of the bankrupt estate of Nathan L. Topol
14 ("Debtor") effective as of the Petition Date of May 1, 2012. On November 19, 2015, the
15 Trustee sold the Real Property pursuant to an order of this Court, and the sum of \$6.2 Million
16 has been held by the Trustee in a segregated bank account pending outcome of this adversary
17 proceeding. (Declaration of Stephen R. Harris, Esq.)

18 2. A Deed of Trust was recorded on October 16, 2002, in Placer County, California,
19 as Document No. 2002-0125157 against the Real Property, naming the Borrower as Nathan L.
20 Topol, a married man as his sole and separate property, and naming Citibank, F.S.B. as the
21 Lender. The Deed of Trust indicates in the upper, left hand corner, that the recording was
22 requested by Sierra Valley Title Company, and "when recorded mail to: Citibank, F.S.B., c/o
23 CitiMortgage, Inc., P.O. Box 9206, MS 81026, Farmington Hills, MI 48333-9206." The Deed
24 of Trust indicates Sierra Valley #34-506527 NM also in the upper left hand corner.
25 (Declaration of Stephen R. Harris, Esq., at Exhibit A).

26 3. A Full Reconveyance was recorded on January 12, 2004, in Placer County,
27 California, as Document No. 2004-0002629. The Full Reconveyance states that it reconveys all
28 the estate, title and interest under the Deed of Trust executed by Nathan L. Topol, a married
man as his sole and separate property, and recorded December 16, 2002 as Serial No. 2002-
0125157. The Full Reconveyance was executed by Regina Kay Krahn, Assistant Secretary for

1 Sierra Valley Title Company, and notarized by Cari Lemos on January 6, 2004. The Full
2 Reconveyance references Escrow No. DG-54506527-NM, and Title Order No. 506527. The
3 upper, left hand corner of the Full Reconveyance indicates that the recording was requested by
4 Sierra Valley Title Company, and "when recorded mail to: Citibank, FSB, c/o CitiMortgage,
5 Inc., P.O. Box 9206, MS 81026, Farmington Hills, MI 48333-9206." (Declaration of Stephen R.
6 Harris, Esq. at Exhibit B).

7 4. Regina Garland is an assistant secretary for SVT. As part of her duties, she
8 handled requests for reconveyances and reconveyances. (Garland Deposition Page 18, attached
9 to Declaration of Stephen R. Harris, Esq. as Exhibit C).

10 5. As an assistant secretary, the only document she would execute is a full
11 reconveyance. (Garland Deposition Pages 42-43, attached to Declaration of Stephen R. Harris,
12 Esq. as Exhibit C).

13 6. As an assistant secretary Ms. Garland would sign as many as 20 reconveyances a
14 month. (Garland Deposition Page 43, attached to Declaration of Stephen R. Harris, Esq. as
15 Exhibit C).

16 7. Before Ms. Garland would sign a full reconveyance as an assistant secretary, she
17 would normally have a substitution of Trustee. (Garland Deposition Page 35, attached to
18 Declaration of Stephen R. Harris, Esq. as Exhibit C).

19 8. The Full Reconveyance references the date of the Deed of Trust as December 16,
20 2002 which is a typo. The date was really October 16, 2002. (Garland Deposition Page 40,
21 attached to Declaration of Stephen R. Harris, Esq. as Exhibit C).

22 9. The Full Reconveyance references the correct serial number of the Deed of Trust
23 which supersedes the wrong month. (Garland Deposition Page 40, attached to Declaration of
24 Stephen R. Harris, Esq. as Exhibit C).

25 10. Ms. Garland's normal procedure for executing a full reconveyance was to have a
26 request for reconveyance signed by the beneficiary. (Garland Deposition Page 49, attached to
27 Declaration of Stephen R. Harris, Esq. as Exhibit C).

28 11. Ms. Garland would only prepare a substitution of trustee at the request of the

1 lender. Most of the time if there was a substitution of trustee that substituted in Stewart Title, it
2 had been prepared before it got to Ms. Garland. (Garland Deposition Page 69, attached to
3 Declaration of Stephen R. Harris, Esq. as Exhibit C).

4 12. Ms. Garland testified that she believed documents pertaining to any escrow
5 transaction were stored by SVT for seven years after the date of the transaction. SVT has a
6 small storage area and would send documents to a storage facility at Iron Mountain. (Garland
7 Deposition Page 45 attached to Declaration of Stephen R. Harris, Esq. as Exhibit C).

8 13. At the time Ms. Garland left SVT, the company was shredding old documents.
9 (Garland Deposition Page 46, attached to Declaration of Stephen R. Harris, Esq. as Exhibit C).

10 14. Under cross examination by Mr. Demetras, Ms. Garland testified that the
11 documents associated with this loan would have been held at SVT with escrow officer Nicole
12 Miller, and have now been shredded. (Garland Deposition Page 87, attached to Declaration of
13 Stephen R. Harris, Esq. as Exhibit C).

14 15. Ms. Garland believed the files are legally required to be kept for seven years, and
15 after that time, it is a housekeeping question as to whether to shred them. (Garland Deposition
16 Page 90, attached to Declaration of Stephen R. Harris, Esq. as Exhibit C).

17 16. The decision of file shredding is made at SVT's main office. (Garland
18 Deposition Page 90, attached to Declaration of Stephen R. Harris, Esq. as Exhibit C).

19 17. Ms. Garland testified that she spoke with Mr. Harris' paralegal on the telephone
20 and informed her that the the escrow file related to the Citi Deed of Trust and Full
21 Reconveyance had been shredded. (Garland Deposition Page 91, attached to Declaration of
22 Stephen R. Harris, Esq. as Exhibit C).

23 18. On June 24, 2014, CitiMortgage, Inc. ("Citi") filed a NOTICE OF INTENT TO
24 SERVE SUBPOENA ON NON-PARTY as Docket No. 905 in Case No. 12-51014-btb.
25 (Declaration of Stephen R. Harris, Esq. at Exhibit D).

26 19. On June 25, 2014, Stephen R. Harris emailed Eddie Jimenez, Esq., to request a
27 copy of the Subpoena that Citi intended to serve on Sierra Valley Title Company ("SVT"). On
28 June 30, 2014, Mr. Jimenez responded to Mr. Harris via email and included a copy of the

1 Subpoena in his email. (Declaration of Stephen R. Harris, Esq. at Exhibit E).

2 20. The SVT Subpoena commanded, in part, production "of any and all documents
3 referring and/or relating to the real property located at 4250 West Lake Boulevard, Homewood,
4 CA 96141...". (Declaration of Stephen R. Harris, Esq. at Exhibit E).

5 21. The SVT Subpoena specifically requested production of all documents referring
6 or relating to the Citi Full Reconveyance, the underlying escrow for the Citi Deed of Trust, and
7 the substitution of trustee for the Deed of Trust. (Declaration of Stephen R. Harris, Esq. at
8 Exhibit E).

9 22. The SVT Subpoena required production of the documents from SVT by July 8,
10 2014. (Declaration of Stephen R. Harris, Esq. at Exhibit E).

11 23. On September 5, 2014, Stephen R. Harris, Esq. emailed Eddie Jimenez, Esq. a
12 letter, requesting among other things copies of all documents Mr. Jimenez had received in
13 response to the SVT Subpoena. (Declaration of Stephen R. Harris, Esq. at Exhibit F).

14 24. On September 10, 2014, Eddie Jimenez, Esq. emailed Stephen R. Harris, Esq.
15 and responded that the Subpoena was served on Sierra Valley Title Company and Mr. Jimenez
16 was advised that all records had been purged. As a result, no documents responsive to the
17 Subpoena were produced by SVT. (Declaration of Stephen R. Harris, Esq. at Exhibit G).

18 DATED this 3rd day of November, 2016

19 HARRIS LAW PRACTICE LLC
20 6151 Lakeside Drive, Suite 2100
Reno, NV 89511

/s/ Stephen R. Harris

21 By _____
22 STEPHEN R. HARRIS, ESQ.

23 ECHEVERRIA LAW OFFICE
24 9432 Double R Blvd.
Reno, NV 89521

/s/ John Echeverria

25 By _____
26 JOHN ECHEVERRIA, ESQ.
27 Attorneys for Trustee/Third Party Plaintiff
28

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15 email: je@eloreno.com
16 Attorneys for Trustee/Third Party Plaintiff

17 UNITED STATES BANKRUPTCY COURT
18 FOR THE DISTRICT OF NEVADA

19 * * * * *

20 IN RE:
21 NATHAN L. TOPOL, an individual,
22 Debtor.

Case No.: BK-12-51014-btb
(Chapter 7)

23 CITIMORTGAGE, INC., a corporation,
24 Plaintiff,

Adversary Case No. 15-05015-gwz

25 v.

26 W. DONALD GIESEKE, Trustee of the
27 NATHAN L. TOPOL bankruptcy estate, et
28 al.
29 Defendants.

**DECLARATION OF STEPHEN R.
HARRIS IN SUPPORT OF TRUSTEE'S
STATEMENT OF UNDISPUTED FACTS
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT OR PARTIAL
SUMMARY JUDGMENT
AGAINST CITIMORTGAGE, INC.'S
COMPLAINT**

30 W. DONALD GIESEKE, Trustee of the
31 NATHAN L. TOPOL bankruptcy estate

32 Third Party Plaintiff,
33 v.

Hrg. Date: December 15, 2016
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Set By: Calendar Clerk

1 STEWART TITLE OF PLACER, a
2 California corporation, fka SIERRA
3 VALLEY TITLE COMPANY, and its
4 successors,

5
6 Third Party Defendant.
7 _____/

8 STEPHEN R. HARRIS, ESQ., an individual, under penalty of perjury states as follows:

9 1. I am an attorney duly licensed in the State of Nevada. I am the duly appointed
10 general bankruptcy counsel for W. Donald Gieseke, Trustee ("Trustee") of the bankrupt estate
11 of NATHAN L. TOPOL, in Chapter 7 Case No. 12-51014-gwz. The Trustee is also a
12 Defendant and Third Party Plaintiff in the above-captioned adversary proceeding. I am over the
13 age of 18 years, am mentally competent and have personal knowledge of the matters set forth in
14 this declaration. If called upon as a witness, I could and would competently testify to these
15 matters.

16 2. Certain real property located at 4250 W. Lake Blvd., Homewood, California
17 96141 ("Real Property") was 11 U.S.C. §541 property of the bankrupt estate of Nathan L. Topol
18 ("Debtor") effective as of the Petition Date of May 1, 2012. On November 19, 2015, the
19 Trustee sold the Real Property pursuant to an order of this Court, and the sum of \$6.2 Million
20 Dollars has been held by the Trustee in a segregated bank account pending outcome of this
21 adversary proceeding.

22 3. A Deed of Trust was recorded on October 16, 2002, in Placer County, California,
23 as Document No. 2002-0125157 against the Real Property, naming the Borrower as Nathan L.
24 Topol, a married man as his sole and separate property, and naming Citibank, F.S.B. as the
25 Lender. The Deed of Trust indicates in the upper, left hand corner, that the recording was
26 requested by Sierra Valley Title Company, and "when recorded mail to: Citibank, F.S.B., c/o
27 CitiMortgage, Inc., P.O. Box 9206, MS 81026, Farmington Hills, MI 48333-9206." The Deed
of Trust indicates Sierra Valley #34-506527 NM also in the upper left hand corner. A true and
correct copy of the recorded Deed of Trust is attached hereto as **Exhibit A**.

28 4. A Full Reconveyance was recorded on January 12, 2004, in Placer County,

1 California, as Document No. 2004-0002629. The Full Reconveyance states that it reconveys all
 2 the estate, title and interest under the Deed of Trust executed by Nathan L. Topol, a married
 3 man as his sole and separate property, and recorded December 16, 2002 as Serial No. 2002-
 4 0125157. The Full Reconveyance was executed by Regina Kay Krahn, Assistant Secretary for
 5 Sierra Valley Title Company, and notarized by Cari Lemos on January 6, 2004. The Full
 6 Reconveyance references Escrow No. DG-54506527-NM, and Title Order No. 506527. The
 7 upper, left hand corner of the Full Reconveyance indicates that the recording was requested by
 8 Sierra Valley Title Company, and "when recorded mail to: Citibank, FSB, c/o CitiMortgage,
 9 Inc., P.O. Box 9206, MS 81026, Farmington Hills, MI 48333-9206." A true and correct copy of
 10 the recorded Deed of Trust is attached hereto as **Exhibit B**.

11 4. On November 25, 2014, I took the deposition of Regina Garland, fka Regina Kay
 12 Krahn. A true and correct copy of the transcript of Regina Garland's deposition is attached
 13 hereto as **Exhibit C**.

14 5. On June 24, 2014, CitiMortgage, Inc. ("Citi") filed a NOTICE OF INTENT TO
 15 SERVE SUBPOENA ON NON-PARTY as Docket No. 905 in Case No. 12-51014-btb. A true
 16 and correct copy of Docket No. 905 is attached hereto as **Exhibit D**.

17 6. On June 25, 2014, I emailed Eddie Jimenez, Esq., counsel for Citi, to request a
 18 copy of the Subpoena that Citi intended to serve on Sierra Valley Title Company ("SVT"). On
 19 June 30, 2014, Mr. Jimenez responded to me via email and included a copy of the Subpoena in
 20 his email. A copy of my June 25, 2014 email and Mr. Jimenez's June 30, 2014 email, with
 21 attachments, are attached hereto as **Exhibit E**.

22 7. The SVT Subpoena commanded, in part, production "of any and all documents
 23 referring and/or relating to the real property located at 4250 West Lake Boulevard, Homewood,
 24 CA 96141...". See **Exhibit E**.

25 8. The SVT Subpoena specifically requested production of "all documents referring
 26 or relating to the Citi Full Reconveyance, the underlying escrow for the Citi Deed of Trust, and
 27 the substitution of trustee for the Deed of Trust. ...". See **Exhibit E**.

28 9. The SVT Subpoena required production of the documents from SVT by July 8,

1 2014. See **Exhibit E**.

2 10. On September 5, 2014, I emailed Eddie Jimenez, Esq. a letter, requesting among
3 other things copies of all documents Mr. Jimenez had received in response to the SVT
4 Subpoena. A true and correct copy of my September 5, 2014 email and letter enclosure (with
5 emphasis added) to Mr. Jimenez are attached hereto as **Exhibit F**.

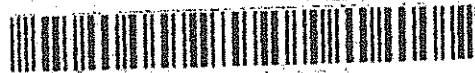
6 11. On September 10, 2014, Eddie Jimenez, Esq. responded to me via email
7 confirming that the Subpoena was served on Sierra Valley Title Company and Mr. Jimenez was
8 advised that all records had been purged. A true and correct copy of Mr. Jimenez's September
9 10, 2014 email (with emphasis added) is attached hereto as **Exhibit G**. No documents
10 responsive to the Subpoena issued by Citi were produced by SVT.

11 DATED this 3rd day of November, 2016

12 */s/ Stephen R. Harris*

13 STEPHEN R. HARRIS, ESQ.
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EXHIBIT A



PLACER, County Recorder
JIM MCCAULEY Co Recorder Office
DOC- 2002-0125157

Check Number 113300g
Wednesday, OCT 16, 2002 09:16:41
REC \$17.00 MIC \$3.00 AUT \$15.00
SBS \$14.00
Ttl Pd \$49.00

Nbr-0000708874
REC/R2/1-15

Sierra Valley #34-506527 NM

Recordation Requested by:
Citibank, F.S.B.
12855 North Outer Forty Drive
Saint Louis, MO 63141

When Recorded Mail to:
Citibank, F.S.B.
c/o CitiMortgage, Inc.
P.O. Box 9206, MS 81026
Farmington Hills, MI 48333-9206
Send Tax Notices to:
Citibank, F.S.B.
P.O. Box 790009
Saint Louis, MO 63141

022107722-RR

[Space Above This Line For Recording Data]

Loan No: 6827

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated October 9, 2002, together with all Riders to this document.
- (B) "Borrower" is Nathan L. Topol, a married man as his sole and separate property. Borrower is the trustor under this Security Instrument.
- (C) "Lender" is Citibank, F.S.B.. Lender is a Savings Bank organized and existing under the laws of the United States. Lender's address is 1 Court Square, Floor 20, Long Island City, NY 11120. Lender is the beneficiary under this Security Instrument.
- (D) "Trustee" is Citibank Service Corp, A California Corporation.
- (E) "Note" means the promissory note signed by Borrower and dated October 9, 2002. The Note states that Borrower owes Lender Five Million Five Hundred Thousand Dollars (U.S. \$5,500,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than November 1, 2032.

- (F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
- (G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
- (H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s): |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |

- (I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
- (J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
- (K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
- (L) "Escrow Items" means those items that are described in Section 3.
- (M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
- (N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
- (O) "Periodic Payment" means the regularly scheduled amount due for: (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.
- (P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.
- (Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of PLACER, California:

See Attached Legal

which currently has the address of 4250 West Lake Boulevard, Homewood, CA 96141 ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to

pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's selection to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

24. Substitute Trustee. Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

25. Statement of Obligation Fee. Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

Nathan L. Topol

(Seal)
Borrower

GOVERNMENT CODE 27361.7
I certify under penalty of perjury that the notary seal reads as follows:
Name of Notary Louise Ann Hoyer Barnes
Date Commission Expires 4-14-03 Commission #
County of Commission Washoe Notary ID #
State of Commission NV
Signature [Signature] (Firm name, if any)
10/15/02 Roburn, A

[Space Below This Line For Acknowledgment]

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Nevada

COUNTY OF Washoe

)
) SS
)

On October 9, 2002

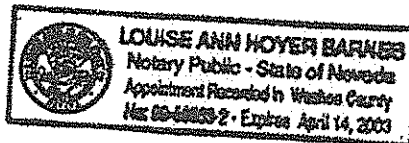
personally appeared Nathan L. Topol

, before me, Louise Ann Hoyer Barnes

, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature [Signature]



(Seal)

CALIFORNIA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

C3005 - 01/11/2001

8271

Page 11 of 11

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Form 3005 1/01

Initials: NT

FIXED/ADJUSTABLE RATE RIDER
(One-Year Treasury Index - Rate Caps)

Loan No.:

5827

THIS FIXED/ADJUSTABLE RATE RIDER is made this Ninth day of October, 2002, and is incorporated into and shall be deemed to amend and supplement the Mortgage, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to Citibank, F.S.B. ("Lender") of the same date and covering the Property described in the Security Instrument and located at:

4250 West Lake Boulevard, Homewood, CA 96141
[Property Address]

THE NOTE PROVIDES FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial fixed interest rate of 5.375%. The Note provides for changes in the initial fixed rate to an adjustable interest rate, as follows:

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of November, 2007, and the adjustable interest rate I will pay may change on that day every 12th month thereafter. The date on which my initial fixed interest rate changes to an adjustable interest rate, and each date on which my adjustable interest rate could change, is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my adjustable interest rate will be based on an Index. The "Index" is the weekly average yield on United States Treasury securities adjusted to a constant maturity of one year, as made available by the Federal Reserve Board. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two & 875/1000 percentage points (2.875%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

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(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 7.375% or less than 3.375%. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than two percentage points from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than 10.375%.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my initial fixed interest rate to an adjustable interest rate and of any changes in my adjustable interest rate before the effective date of any change. The notice will include the amount of my monthly payment, any information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument shall be in effect as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument described in Section B1 above shall then cease to be in effect, and the provisions of Uniform Covenant 18 of the Security Instrument shall be amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

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If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Fixed/Adjustable Rate Rider.

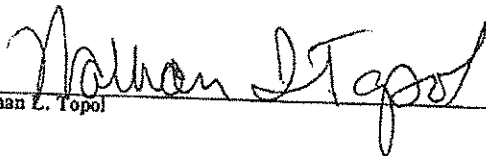

 Nathan L. Topol (Seal)
 -Borrower

EXHIBIT "A"

The land referred to in this Report is situated in the State of California, County of Placer, and is described as follows:

PARCEL ONE:

Beginning at the Southwest corner of the parcel described hereby, a point on the Easterly line of the California State Highway, said point being identical with the Northwest corner of the property described in that certain Deed to Rhoades, recorded in Volume 882, at page 24 of the Official Records of Placer County, and from said point, the stump of a fir tree marking the meander corner common to fractional Section 36, Township 15 North, Range 16 East, MDB&M and fractional Section 1, Township 14 North, Range 16 East, MDB&M, bears the following two consecutive courses: (1) South 02°39'40" West 160.00 feet and (2) South 07°40'40" West 1628.64 feet; thence along the Easterly line of the California State Highway on the following two consecutive courses: (1) North 02°39'40" for a distance of 98.99 feet, and (2) along the arc of a curve to the right having a radius of 3460 feet, through an angle of 02°54'53" for a distance of 176.01 feet (said arc being represented by the chord of North 04°07'06.5" East 176.00 feet); thence South 75°07'35" East 338.00 feet; thence South 31°54'39" West 225.00 feet to a point on the North line of the parcel described in the above mentioned Deed to Rhoades; thence North 89°09'10" West along said North line for a distance of 225.00 feet to the point of beginning.

PARCEL TWO:

All that certain strip of land which lies between the East line of the above described parcel and the low water of Lake Tahoe and is bounded by the Easterly extensions of the Northerly and Southerly lines of said parcel.

APN: 085-250-008

15

EXHIBIT B

RECORDING REQUESTED BY:
SIERRA VALLEY TITLE COMPANY
AND WHEN RECORDED MAIL TO:

CITIBANK, FSB C/O CITIMORTGAGE, INC.
PO BOX 9206, MS 81026
FARMINGTON HILLS, MI 48333-9206



PLACER, County Recorder
JIM MCCAULEY

DOC- 2004-0002629

Acct 77-SIERRA VALLEY TITLE

Monday, JAN 12, 2004 08:00:00

REC \$3.00 MIC \$3.00 AUT \$1.00

SBS \$0.00

Ttl Pd \$7.00

Nbr-0001008257

slk/SK/1-1

THIS SPACE FOR RECORDER'S USE ONLY:

ESCROW NO. DG-54506527-NM

TITLE ORDER NO. 506527

FULL RECONVEYANCE

SIERRA VALLEY TITLE COMPANY, a Corporation, Trustee under the Deed of Trust executed by
NATHAN L. TOPOL, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY

Trustor, and recorded DECEMBER 16, 2002 as Serial No. 2002-0125157 in Book n/a, Page n/a, of Official Records in the Office of the County Recorder of Placer County, California, having been requested in writing by the holder of the obligation secured by said Deed of Trust, to reconvey the estate granted to Trustee under said Deed of Trust, does hereby reconvey to the person or persons legally entitled thereto, without warranty, all the estate, title and interest acquired by Trustee under said Deed of Trust in the lands therein described, situated in the County of Placer, State of California reference being hereby specifically made to said Deed of Trust and the record thereof for a particular description of said lands.

IN WITNESS WHEREOF, said SIERRA VALLEY TITLE COMPANY, Trustee, has caused its corporate name and seal to be hereto affixed by its Assistant Secretary, thereunto duly authorized.

DATED January 2, 2004
STATE OF CALIFORNIA
COUNTY OF Placer

On January 6, 2004
before me, Cari Lemos
a Notary Public in and for said State, personally
appeared

Regina Kay Krahn

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

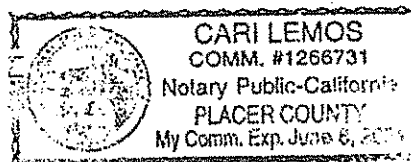
Signature

SIERRA VALLEY TITLE COMPANY

BY:

Regina Kay Krahn
REGINA KAY KRAHN, ASSISTANT SECRETARY

BY:



(This area for official notarial seal)

EXHIBIT C

REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

1

1 UNITED STATES BANKRUPTCY COURT

2 FOR THE DISTRICT OF NEVADA

3
4 IN RE:

CASE NO.:

5 NATHAN L. TOPOL, an individual,

BK-12-51014-btb
(Chapter 7)

6 Debtor.
7
8
9
10
11
12
13
14
15

16 DEPOSITION OF

17 REGINA K. GARLAND

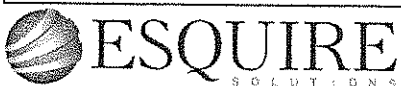
18
19 November 25, 2014

20 1:27 p.m.

21
22 2151 River Plaza Drive, Suite 300

23 Sacramento, California

24
25 Mark S. Patterson, CSR No. 12432



800.211.DEPO (3376)
EsquireSolutions.com

REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

2

APPEARANCES OF COUNSEL

For the Trustee for TOPOL ESTATE:

LAW OFFICES OF HARRIS LAW PRACTICE, LLC
BY: STEPHEN R. HARRIS, ESQ.
6151 Lakeside Drive
Suite 2100
Reno, Nevada 89511
775.786.7600
775.786.7764 Fax
steve@harrislawreno.com

For the Trustee of QPRT TOPOL:

DEMETRAS & O'NEILL
BY: J. CRAIG DEMETRAS, ESQ.
230 East Liberty Street
Reno, Nevada 89501
775.348.4600
775.348.9315 Fax
icd@demetras-oneill.com

For CITIMORTGAGE, INC.:

PITE DUNCAN, LLP
BY: CHRISTOPHER M. McDERMOTT, ESQ.
921 11th Street
Suite 300
Sacramento, California 95814
916.760.3722
858.412.2708 Fax
cmcdermott@piteduncan.com

ALSO PRESENT:

DON GIESEKE



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

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INDEX OF EXAMINATION

WITNESS: REGINA K. GARLAND

EXAMINATION

PAGE

By Mr. Harris

4, 94

By Mr. McDermott

61, 99

By Mr. Demetras

85, 101

INFORMATION REQUESTED

Page Line

(NONE)

WITNESS INSTRUCTED NOT TO ANSWER

Page Line

(NONE)

INDEX TO EXHIBITS

Exhibit

Description

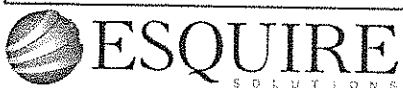
PAGE

Exhibit 1 Full Reconveyance

19

Exhibit 2 Deed of Trust

26



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

4

DEPOSITION OF REGINA K. GARLAND

November 25, 2014; 1:27 p.m.

REGINA K. GARLAND,
having been first duly sworn, testifies as follows:

EXAMINATION

BY MR. HARRIS:

Q Do you want to state your name and address,
please.

A Sure. Regina Kay Garland, 5305 Flagstone
Street, Carmichael, California 95608.

Q And do you want to give your phone number too,
Regina?

A Certainly. (916)961-1347.

Q Okay. First off, how would you like me to
address you? Ms. Garland? Or Regina? Kay? It's up to
you.

A Kay works.

Q Kay works?

A Kay is fine. Yeah.

Q Okay. Thank you very much.

A Uh-huh.

Q Kay, my name is Steve Harris.

A Yes.



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

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1 Q I'm an attorney in Reno, Nevada.

2 A Uh-huh.

3 Q This is my client, Donald Gieseke. He's the
4 trustee for the Nathan Topol Estate.

5 A Uh-huh.

6 Q Over here is Mr. Demetras, and he represents
7 Virginia Topol, who is not in bankruptcy but her late
8 husband was in bankruptcy or is in bankruptcy.

9 A Okay.

10 Q And then over here is Chris --

11 MR. McDERMOTT: Chris McDermott.

12 BY MR. HARRIS:

13 Q -- McDermott.

14 MR. McDERMOTT: And I represent CitiMortgage, Inc.

15 BY MR. HARRIS:

16 Q And he's also an attorney. And Mr. Demetras
17 is an attorney, but Mr. Gieseke is not an attorney.

18 A Okay.

19 Q So -- and you're here pursuant to a notice of
20 taking deposition.

21 A Yes.

22 Q Do you see that document?

23 A Yes.

24 Q Okay. And then I believe my office called you
25 the other day, Norma --



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

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1 A Uh-huh.

2 Q -- and asked if you were going to be here?

3 A Uh-huh. Yes.

4 Q Okay. And are you -- are you basically
5 retired and not working, or are you working part time,
6 full time, what?

7 A I'm retired.

8 Q Okay.

9 A Not working.

10 Q Okay. What was your last full-time employment
11 position?

12 A I was the office manager and escrow officer at
13 Stewart Title.

14 Q Okay. But let me -- have you ever had your
15 deposition or Rule 2004 Examination taken before?

16 A I think I've had a deposition taken, but it
17 was years ago.

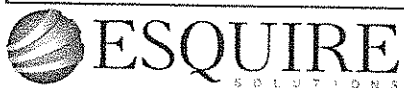
18 Q Okay. Do you understand the process, I ask
19 you questions, and you give me answers under oath and
20 under penalty of perjury?

21 A Yes.

22 Q If you don't understand something, I'll be
23 glad to rephrase or repeat the question.

24 A Okay.

25 Q I'm here just trying to get the facts with



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

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1 regard to a certain dispute that I'll explain in a
2 little bit.

3 A Sure.

4 Q Is there any reason you cannot give truthful
5 and complete testimony at this time?

6 A No.

7 Q You're not under the influence of any drugs or
8 alcohol or anything?

9 A No.

10 Q Okay. Any medications that would prevent you
11 from --

12 A No.

13 Q Okay. Your last full-time employment position
14 before your retirement was at Stewart Title?

15 A Yes.

16 Q Okay. And what branch of Stewart Title did
17 you -- were you the office manager of?

18 A The Douglas Boulevard in Roseville.

19 Q In Roseville?

20 A Uh-huh.

21 Q And what county was that?

22 A Placer County.

23 Q Placer County.

24 How long did you work at that location for
25 Stewart Title?



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

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1 A I worked for Stewart Title a total -- a total
2 of almost 25 years in the Roseville area, three
3 different offices though. That one -- the last one was
4 probably a total of ten of those years out of the 25.

5 Q And the Roseville location?

6 A It was 3300 Douglas Boulevard, Suite 210.

7 Q Okay. By any chance did you know a Bill Hanks
8 in Reno? He worked at Stewart Title for many, many,
9 many years.

10 A Sounds familiar. I think he was in the title
11 department?

12 Q Yes.

13 A Yes. Yes. I think I talked to him on the
14 phone probably.

15 Q Okay. So in your position at the
16 Douglas Boulevard branch for ten years, you were the
17 office manager?

18 A Actually, for the full 25 years.

19 Q For the full 25 years?

20 A Uh-huh.

21 Q But only ten years were at the
22 Douglas Boulevard branch?

23 A We were actually at three different
24 Douglas Boulevard addresses over the 25 years.

25 Q Okay. So what were the three different

REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014

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1 addresses and the time periods?

2 A The first one was 3998 Douglas, and that would
3 have been from August of '86 -- and I would only be
4 guessing.

5 Q That's fine.

6 A I'm not sure. Probably six years later.

7 Q And then after, let's say, about '92 or '93?

8 A The second address was 2200 Douglas Boulevard.
9 I don't recall the suite number though on that.

10 Q 2200 Douglas Boulevard?

11 A Uh-huh.

12 Q And that would be from '92, '93, to when?

13 A Probably '95.

14 Q Okay. And then --

15 A And that was ten years at the last address,
16 the 3300.

17 Q '95 to '05?

18 A Uh-huh.

19 Q And then what year did you retire?

20 A '05, 2005 -- I'm sorry. 2010. I'm off on my
21 dates.

22 Q Okay. So you were at the last address,
23 3300 Douglas Boulevard, for about 15 years?

24 A Probably more like 12.

25 Q Twelve?



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014
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1 A So I messed up a little bit there.

2 Q So you think you were at 2200 from '92, '93
3 to --

4 A I'd probably add a few years to that so it
5 would make sense, and so it would come out to about 25
6 total. Yeah.

7 Q Okay. I don't want to put words in your
8 mouth.

9 Do you think -- so in '92, '93, commencing and
10 ending --

11 A Probably '95.

12 Q Okay. That's three or four years later.
13 And then '95 to 2010, that's 15 years.

14 A Okay. Now I am confused.

15 Q Okay.

16 A I don't remember. I mean I remember when I
17 quit.

18 Q Okay. Do you think you were at the 3300
19 location for --

20 A I know it was at least ten years.

21 Q Okay. So would that -- and you retired there
22 in 2010?

23 A '10. Yes.

24 Q Okay.

25 A I said 2005. I'm sorry.

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1 Q Okay. So does that mean you probably -- the
2 Stewart Title company moved to 3300, let's say, '99,
3 2000, 2001?

4 A That makes sense.

5 Q Somewhere in those three years?

6 A Yes.

7 Q Okay. And you were an office manager from day
8 one at this location?

9 A I was either branch manager or office manager,
10 right, senior escrow officer. All that.

11 Q Okay. So branch manager?

12 A Uh-huh.

13 Q Senior escrow officer?

14 A Yes.

15 Q What other --

16 A And office manager.

17 Q Office manager.

18 A And that was from '86 to 2010.

19 Q Okay. What is the extent of your education?

20 A I basically had two years in college with an
21 AS degree. That was it.

22 Q Where did you work before Stewart Title?

23 A I was at First American Title; and prior to
24 that, I was at Sunset Real Estate for seven years.

25 Q Sunset Real Estate?



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1 A Yes.

2 Q Were you a real estate --

3 A No.

4 Q -- broker?

5 A I was assistant to the broker. Had my real
6 estate license, but I wasn't practicing.

7 Q And at FATCO, First American -- you call it
8 FATCO, right?

9 A Right. Yes. Yeah.

10 Q At FATCO, what was your position?

11 A That was escrow assistant.

12 Q And then that was --

13 A And then officer. That -- I believe I started
14 that in '80, 1980, and was there until I went to Stewart
15 in '86.

16 Q Okay. Okay. What were your -- let's say
17 at -- when you were at the 3300 Douglas Boulevard
18 branch, how many employees did you have at that branch?
19 What was the range?

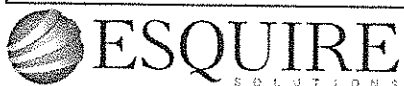
20 A At 3300?

21 We, at one point, had upwards of 12 to 13.

22 Q Okay. When you retired in 2010, you had 12
23 to 13 --

24 A No.

25 Q -- was that --



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1 A No. It was lesser then. It was probably
2 seven to eight.

3 Q Who took your place when you retired?

4 A Shelly Kimbrow.

5 Q Kimbrow?

6 A K-i-m-b-r-o-w.

7 Q Is she still there?

8 A No.

9 Q Do you know who took her place?

10 A No. I -- I really don't think they replaced
11 her in so many words. Yeah. No, they didn't replace
12 her.

13 Q Okay. What were your -- generally, what were
14 your duties as a branch manager, office manager, and
15 senior escrow manager?

16 A Makes it sound good, huh? The function of the
17 branch manager was just to oversee anything going on in
18 the office, to run the day-to-day part of the office,
19 have office meetings, you know, take care of -- oversaw
20 the acquisition of supplies and that sort of thing.

21 And then escrow, obviously, just doing the
22 actual escrows -- I had my own escrow desk and helping
23 with any questions or anything anyone else had.

24 Q You said escrow desk.

25 On refinancings, purchase sales of properties?



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1 A Yes. Short sales. Yes. Everything.

2 Q Okay. So you oversaw the day-to-day
3 operations of the branch?

4 A Uh-huh.

5 Q Oversaw any acquisitions that -- by the
6 company to operate that branch?

7 A Uh-huh.

8 Q And you had your own escrow desk, as you said,
9 where you had your own files for closings?

10 A Uh-huh. For closings.

11 Q Okay. Any other duties that you had?

12 A I was an assistant secretary --

13 Q Okay.

14 A -- with the company.

15 Q For the Stewart --

16 A For Stewart, slash, Sierra Valley. Uh-huh.
17 Same company, just different names.

18 Q Okay. How long -- when did Sierra Valley
19 become Stewart Title?

20 A I don't have the exact date. It was while we
21 were in the 3300 Douglas, so it might have been -- I'd
22 have to guess.

23 Q That's --

24 A Maybe nine or ten years while I was there.

25 Q Okay. So sometime in the early 2000s?



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1 A Right.

2 Q Okay. Like 2000 to 2000 and --

3 A 2002 or '03.

4 Q Where it became Stewart Title?

5 A Uh-huh.

6 Q Okay.

7 A We were always owned by Stewart Title.

8 Q Oh, you were?

9 A We -- right.

10 Q Okay. Do you know when you -- well, did you
11 go under the name of Stewart Valley -- or was it
12 Sierra Valley Title?

13 A When I first started in '86.

14 Q Okay. And then do you know when they changed
15 their name of business operations to Stewart Title
16 Company?

17 A That would have been when we were at
18 3300 Douglas. But, again, I'm not exactly sure of the
19 year.

20 Q Okay. On the escrows -- how many other escrow
21 officers worked with you?

22 A Majority of the time there were probably two
23 other escrow officers.

24 Q Okay. And the three of you handled all the
25 escrow transactions that came into the title company?



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1 A Just to that branch.

2 Q Okay. Did you -- did this branch also
3 issue -- or was -- were requests made of preliminary
4 title reports for this branch?

5 A Yes.

6 Q Okay. If you needed a preliminary title
7 report, did the actual branch do it, or did you farm it
8 out to another Stewart Title Company location?

9 A That's kind of a two-fold answer. When we
10 first moved into 3300, we also had part of the title
11 department there, so they were issuing the prelims
12 there. But within a year or two that changed, and
13 everything was run through our Carmichael office, the
14 main office.

15 Q The title plant?

16 A Uh-huh.

17 Q And do you know about when that change took
18 place where everything was run out of the Carmichael
19 branch?

20 A It was within a year or so of moving in.

21 Q Moving into the 3300?

22 A To the 3300. Uh-huh.

23 Q And I think you said you moved into 3300
24 sometime in the late '90s early 2000s?

25 A Yes.



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1 Q Okay. As part of your escrow transactions,
2 what would cause you to open a file, a short sale as you
3 said?

4 A Uh-huh.

5 Q Parties wanting to do a buy-sale for a
6 particular property?

7 A Yes.

8 Q What else?

9 A Refinances.

10 Q Refinances.

11 A Or loans of any type.

12 Q Okay. What else?

13 A That would pretty much be it. Occasionally, I
14 would do a commercial building or construction -- we did
15 construction loans -- I did construction loans too, just
16 the escrow part.

17 Q Okay. You didn't handle any construction
18 control, disbursement?

19 A No. Huh-uh.

20 Q Okay. Was there -- was it primarily
21 residential transactions were handled out of this
22 office?

23 A Yes.

24 Q Okay. But there were some commercial
25 transactions?



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1 A Some. We actually had two commercial offices
2 at the time in Sacramento County that did the majority
3 of that. But every once in a while one of our clients
4 would be doing a commercial build or something so we did
5 it.

6 Q Okay. In Placer County?

7 A Yes.

8 Q Okay. So were all of your transactions that
9 you handled the escrows for, were they all based out of
10 Placer County?

11 A The majority of them, but not all of them.

12 Q Okay. Some would be in other counties?

13 A Some would be Sacramento County, and then
14 refinances, especially, seem to be outside counties.

15 Q Okay. So did you also handle requests for
16 reconveyances and reconveyances in your role as an
17 escrow officer?

18 A In my role as assistant secretary.

19 Q Assistant secretary?

20 A Uh-huh.

21 Q Okay. And how would your role as assistant
22 secretary cause you to be involved in a reconveyance of
23 a deed of trust?

24 A We would be -- the documents would be either
25 sent to us from another office, mailed to us from



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1 another title company, or in-house from an escrow and so
2 the documents would have been surrendered to us, the
3 note, the deed of trust, the request for the
4 reconveyance fully signed and properly signed before we
5 would issue a reconveyance. And then it would go back
6 out for recording in the appropriate county.

7 Q Okay. And I think you've seen this document
8 before. I'll give you what's --

9 A No, I haven't. Not since --

10 Q Oh.

11 A -- not since it started.

12 Q Well, I'll show you what's Exhibit 1.

13 A Okay.

14 (Exhibit 1 was marked for identification
15 and attached hereto.)

16 BY MR. HARRIS:

17 Q First off, let me ask you: Do you recognize
18 the type of document that is?

19 A Yes, I do.

20 Q Okay. And what is it?

21 A It's a full reconveyance.

22 Q Okay. And, generally, what does a full
23 reconveyance do?

24 A It states that the loan in this book and
25 pager -- actually, the serial number in this case was

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1 paid in full.

2 Q Okay. Do you recognize any part of this
3 document?

4 A Well, that looks like my signature, but I
5 couldn't tell you if I signed it or not. But that's
6 kind of what it looked like back then. And I recognize
7 the notary.

8 Q And who is the notary?

9 A Cari Lemos.

10 Q Did she work in your office?

11 A Yes. She was an assistant of mine.

12 Q And I take it she was a notary?

13 A Yes. Oh, yeah. Stamp and all. Yes.

14 Q Were you also a notary?

15 A Yes.

16 Q Okay. But, of course, you can't notarize your
17 own signatures?

18 A No. No.

19 Q In an escrow company such as what you worked
20 in, if Cari Lemos notarized your signature would she
21 keep track of that in a notary book, or was there some
22 sort of other rule that you had of keeping track of
23 notaries?

24 A No. Normal practice would have been just a
25 line item in her notary book.

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1 Q Okay. And this line item in her notary book,
2 would you -- what would that line item say?

3 A It could have the escrow number.

4 Q Uh-huh.

5 A It doesn't always.

6 Q Uh-huh.

7 A And then I would sign it.

8 Q Would she describe the document?

9 A Usually, yes.

10 Q Okay. I'm talking just in --

11 A It was standard practice --

12 Q -- just in general?

13 A In general, yes, it would be good, yes, to do
14 that.

15 Q Okay. So she would -- would she have the date
16 in her book?

17 A Uh-huh.

18 Q Okay. And she would have --

19 A The date and the document.

20 Q The document number?

21 A Uh-huh.

22 Q Okay. The type of document or the document
23 number?

24 A The type of document.

25 Q Okay.

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1 A Because when she's notarizing, it's not
2 recorded yet.

3 Q Right.

4 So she would have the date, the type of
5 document?

6 A Uh-huh.

7 Q She would have written your name?

8 A Yes.

9 Q Okay. Would you then sign that, her book?

10 A Yes.

11 Q Okay. Would you generally do this for all the
12 transactions that you asked her to notarize your
13 signature for?

14 A It would be normal practice, yes.

15 Q To have her sign her notary book --

16 A Uh-huh.

17 Q -- for a signature --

18 A Right.

19 Q -- that you wanted her to notarize?

20 A Yes.

21 Q Do you know if Cari Lemos is still located at
22 the 3300 Boulevard --

23 A She is not.

24 Q Okay. Do you know where she is?

25 A I believe she's working somewhere in Nevada

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1 County.

2 Q Okay. Do you know what title company?

3 A Last I knew I think it was Placer Title, but
4 not sure.

5 Q And don't the notaries maintain their own
6 notary book?

7 A As a rule of thumb I -- the ones with
8 Stewart Title did. But when you relinquish your notary
9 or it expires, you're supposed to actually turn those
10 over to the county that you're a notary in. But Placer
11 County won't take our books, so most of us try to keep
12 them -- or the company keeps them in storage. It just
13 depends on what the escrow officer or notary did.

14 Q Okay. But do they -- as long as they're an
15 active notary, do they normally keep all of their books
16 that they've accumulated or --

17 A Yes.

18 Q And you think she's located at the Nevada City
19 office of Placer Title?

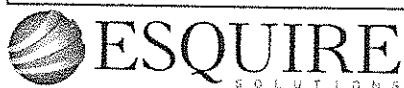
20 A I don't know if it's Nevada City. I think
21 it's Nevada County, but Placer Title.

22 Q For Placer Title Company?

23 A I believe so.

24 Q Okay.

25 A Last time I talked to her, that's where she



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1 was.

2 Q How long ago did you talk to her about it?

3 A Sometime last year.

4 Q Okay. Do you think she still goes under the
5 name Lemos?

6 A No. She is now -- the last name is Gallino,
7 G-a-l --

8 Q G-a --

9 A -- l-l --

10 Q -- l-l --

11 A -- i-n-o.

12 Q G-a-l-l-i-n-o?

13 A Right.

14 Q And it's still Cari -- C-a-r-i?

15 A Yes.

16 Q All right. What else -- first off, this
17 document, what's it entitled?

18 A Full reconveyance.

19 Q Okay. And you said you do or do not recognize
20 your signature there?

21 A It looks like it could be mine, but I don't
22 remember signing. I mean that was a long time ago.

23 Q Okay.

24 A But it's not unusual-looking for how my
25 signature looked then, so --

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1 Q Okay. What date does this document say that
2 you signed this full reconveyance?

3 A January 6th, 2004.

4 Q And it was notarized by?

5 A Cari Lemos.

6 Q Okay. And it appears that she still had an
7 active notary on January 6th, 2004?

8 A Yes. Her's was -- the stamp says it was good
9 through June 8th of -- or June -- I can't tell if that's
10 an 8 or a 6, 2004.

11 Q Okay. How long have you known Cari Lemos at
12 the time of this notary on January 6th of 2004?

13 A I'm just guessing maybe five or six years at
14 that time.

15 Q Okay. Was it -- was that entire five or six
16 years at the 3300 Douglas office?

17 A Yes.

18 Q Who would have -- is this a form, a full
19 reconveyance for Sierra Valley Title Company?

20 A Is it a form?

21 Yes. Uh-huh.

22 Q Okay. The fact that it says, Sierra Valley
23 Title Company on this full reconveyance, does that mean
24 that Stewart Title Company had not renamed Sierra Valley
25 to Stewart Title Company yet?

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1 A No. Not necessarily. That means that because
2 we're listed as the trustee under the deed of trust --

3 Q Uh-huh.

4 A -- we use that same name because it's what's
5 on the deed of trust that recorded.

6 Q Okay.

7 A And we're still -- we're -- Sierra Valley
8 Title and Stewart Title of Sacramento is one in the same
9 company.

10 Q All right. Let's have these deeds of trust
11 marked as the next --

12 A Can I look at a copy of the deed of trust?

13 Q Well, let's let him --

14 A Okay. Oh, yeah.

15 MR. HARRIS: Make this 2.

16 THE REPORTER: Okay.

17 (Exhibit 2 was marked for identification
18 and attached hereto.)

19 BY MR. HARRIS:

20 Q And then you'll see why we're all here.

21 A Yeah. I see. I think I know.

22 I have a question.

23 Q Yes.

24 A What I wanted to see on here was who the
25 trustee is listed as. And, of course, because it's

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1 Citibank, Citibank is the trustee -- or CitiMortgage.

2 Q Right. So you're looking at Exhibit 2, the
3 deed of trust.

4 A Right. On the first page, Item D, as in
5 David --

6 Q Right.

7 A Okay. So if Citibank was the trustee, there
8 would have been a substitution of trustee also that
9 recorded prior to this, but I haven't seen that.

10 Q We haven't either.

11 A Is that the question? Oh, that's the
12 question. Okay.

13 Q Well, let me ask you this --

14 A Uh-huh.

15 Q What was the process, in general, for -- let
16 me ask -- you were in charge of executing full
17 reconveyances for this office?

18 A Uh-huh.

19 Q Okay. Was there anybody else during, let's
20 say, the middle 2000s, like '03, '04, '05 that would
21 also execute full reconveyances at your office?

22 A Our county manager could have. I don't know
23 if he did or not.

24 Q But he was outside your office, the county
25 manager?



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1 A No. He was in our office.

2 Q He was?

3 A Uh-huh.

4 Q Okay. Who was the county manager?

5 A Clark Davenport.

6 Q Okay. And Clark Davenport was -- what do you
7 mean a county manager?

8 A He oversees all the offices in the
9 county for --

10 Q For Sierra Valley, slash --

11 A -- for Placer County.

12 Q For Sierra Valley Title, slash, Stewart Title?

13 A Yes.

14 Q Okay. And you said there were two other
15 Placer County offices in addition to yours?

16 A There was -- at the time I left there were two
17 other Roseville offices and one Auburn office in Placer
18 County.

19 Q Okay. Doesn't Placer County go up to
20 Lake Tahoe?

21 A It does.

22 Q Okay. Were there any offices up there?

23 A No. Auburn was the highest one.

24 Q Okay. So you see a full reconveyance in front
25 of you which is Exhibit 1.

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1 A Uh-huh.

2 Q And who -- you're -- normally, the full
3 reconveyances start out as a form without some of the
4 spaces filled in?

5 A Absolutely.

6 Q Okay. For instance, I assume in the form -- I
7 assume in the upper left-hand corner when it says, When
8 recorded mail to, that would be blank?

9 A Yes.

10 Q Okay. And I assume there wouldn't be any
11 recording information in the upper right-hand corner?

12 A Correct.

13 Q Because it's not recorded yet. We're just
14 talking about a blank form.

15 A Uh-huh.

16 Q What else would be blank on this form?

17 A There would be no escrow number nor title
18 number filled in alongside of the words full
19 reconveyance --

20 Q Right.

21 A -- or return address for mailing. And there
22 would not be the borrower's name nor --

23 Q Okay. And then the trustor --

24 A -- nor the recorded date, as in the body, nor
25 the serial number.

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1 Q All right. Anything else?

2 A And then the signature line and notary
3 information.

4 Q Okay. So if you received a full reconveyance
5 blank form and you were going to cause a full
6 reconveyance to be signed and recorded --

7 A Uh-huh.

8 Q -- who would fill in these blanks?

9 A It could vary. In this case the escrow number
10 was also one in my office. So what would normally
11 happen is that escrow officer handling that escrow would
12 gather the documents that say the loan has been paid in
13 full and give those to myself or my assistant.

14 Q Okay.

15 A And I usually got things in stacks, so there's
16 more than one.

17 Q From this escrow number, and it's escrow
18 No. DG-54506527-NM.

19 Do you know which escrow officer that is?

20 A Nicole Miller.

21 Q Okay. And Nicole Miller.

22 Do you know where she is now?

23 A Douglas branch. I think Norma's talked to
24 her.

25 Q Nicole Miller?



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1 A Uh-huh. Either she talked to Nicole Miller or
2 Debbie Shefke.

3 Q Debbie Shefke?

4 A Uh-huh. They're on the same desk. They're
5 both escrow officers.

6 Q And by Norma, you mean Norma from -- my
7 paralegal from my office?

8 A Yes.

9 Q Okay. I just wanted Chris to know that.

10 A I'm sorry.

11 MR. McDERMOTT: Oh, no. Thank you. I appreciate
12 that.

13 THE WITNESS: If I need keep my answers shorter,
14 tell me. I'm sorry.

15 BY MR. HARRIS:

16 Q You're doing fine.

17 A Okay.

18 Q Nicole Miller.

19 This was -- you say was her escrow?

20 A Yes.

21 Q Okay. Do you have any way of telling what
22 kind of escrow it was from the escrow number?

23 A No.

24 Q Okay. Do you have any other clues in looking
25 at this full reconveyance as to what kind of escrow it

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1 would be, looking at the full reconveyance for the deed
2 of trust?

3 A No. No, I don't.

4 Q So by this being Nicole Miller's escrow as
5 indicated by the escrow number --

6 A Uh-huh.

7 Q -- and we have nothing else to go on except
8 this number on the escrow and her initials that it was
9 her escrow?

10 A Yes.

11 Q Okay. We can't tell what kind of escrow it
12 was?

13 A No.

14 Q So would you have any other involvement with
15 this full reconveyance or this escrow other than signing
16 the full reconveyance and causing it to be recorded?

17 A Once I had the proper documents that says it's
18 been paid off and can be reconveyed, no, that would be
19 it.

20 Q Okay. What would you normally require as an
21 assistant secretary signing off on a full
22 reconveyance -- would you normally require to look at
23 and review before you signed off?

24 A The original note, either the original deed of
25 trust of -- which we're not going to have. I'm sorry.



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1 We get a certified copy of that from the county, the
2 deed of trust, the original note, and a request for
3 reconveyance signed by the beneficiary.

4 And in this case, there would have been a
5 substitution of trustee if we were the ones issuing the
6 reconveyance.

7 Q So you would ask for a certified copy of the
8 deed of trust from the recorder's office?

9 A Right.

10 Q Who would ask for that?

11 A Actually, we -- I'm sorry. Let me back up.
12 We'd probably have that in their file.

13 Q A certified --

14 A Because when the title search does the search
15 of the property, they're going to pull up a copy of
16 that, so we usually request a copy at that time.

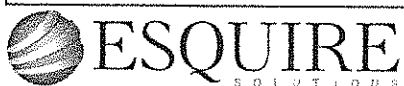
17 Q So would there be a prelim that would --

18 A Yes.

19 Q -- be part of this?

20 A Uh-huh. On the property that's -- that the
21 loan is on. Yes.

22 Q So normally when you're asked to sign a
23 reconveyance as an assistant secretary, you would have a
24 certified copy of the deed of trust or a prelim from
25 your title plant?



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1 A I wouldn't necessarily have a copy of the
2 prelim. It would depend on if I had any questions on
3 anything -- if something looked out of place to me.

4 Q Would you have a copy of the deed of trust?

5 A Yes.

6 Q Okay. But you wouldn't have the original?

7 A No. Because the original would have gone back
8 to the lender and that would have been in their hands,
9 unless they were the ones who sent it to us for
10 reconveyance.

11 Q Okay. And you would have the original note?

12 A Yes.

13 Q Would you -- what if you didn't have the
14 original note? Would you still under some circumstances
15 execute a full reconveyance as an assistant --

16 A I wouldn't. No.

17 Q -- secretary?

18 A I would not. Huh-uh.

19 Q Okay. So you had the original note?

20 A I can only assume that we had it. That would
21 be normal.

22 Q So, well, we're just assuming that you had
23 certain things.

24 A Uh-huh.

25 Q And that would be some sort of evidence of the



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1 deed of trust that was recorded?

2 A Yes.

3 Q We're going to assume that you had the
4 original note. We're assuming that you had -- and I'm
5 not trying to put words in your mouth --

6 A No. I know.

7 Q -- a substitution of trustee. Okay.

8 A That would have been needed, the substitution
9 of trustee.

10 Q Okay. And then the substitution would have
11 substituted the original trustee, which is who?

12 A Citibank.

13 Q Okay. And how do you know the original
14 trustee was Citibank?

15 A Item D on the first page of the deed of trust.

16 Q And it says -- what's the name of the trustee?

17 A The trustee is Citibank Service Corp., a
18 California corporation.

19 Q Okay. And then also on this deed of trust,
20 Exhibit 2, it says, Recordation requested by, and do you
21 see who's requesting that?

22 A Sierra Valley. Uh-huh.

23 Q Oh. That's above --

24 A At the top.

25 Q Below it also --

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1 A Yes. Uh-huh.

2 Q On this deed of trust, the one that's
3 Exhibit 2 --

4 A Yes.

5 Q -- it says, Above recordation requested by
6 Sierra Valley, and there's an escrow number there?

7 A Yes.

8 Q And is that the same escrow number as
9 appearing on the full reconveyance?

10 A Yes.

11 Q Why are they the same?

12 A You use the -- the -- you start kind of
13 backwards with the NM, the initials, and then the six
14 digit number --

15 Q Uh-huh.

16 A -- and then the escrow numbers. The other
17 digits just identify which branch it is is all.

18 Q Okay. So what is the date of the deed of
19 trust that -- when it was recorded?

20 A It recorded in 2002, October 16th, 2002.

21 Q Okay. So at the time of this recordation of
22 the deed of trust, October 16th of 2002, this
23 Sierra Valley No. 32-506527-NM had been written on it?

24 A Yes.

25 Q Okay. And then when the full reconveyance was



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1 filled out -- and you said one of the escrow numbers is
2 normally typed in the form?

3 A Yes.

4 Q Okay. Why would they type in the same number?

5 A The 506 -- because when we received
6 documentation for the full reconveyance, in order to do
7 the full reconveyance, it would go back through the
8 original escrow that the loan was put on -- in.

9 Does that make sense?

10 Q You would -- you would use the original escrow
11 on the deed of trust?

12 A Right. Right.

13 Q For the full reconveyance escrow number?

14 A For the reconveyance, yes.

15 Q Okay.

16 A Because all of those documents would then go
17 together into the file.

18 Q Okay. On the deed of trust in the upper
19 left-hand -- you want to -- it says, When recorded mail
20 to?

21 A Yes.

22 Q Do you want to just read out loud the name of
23 where it was mailed to and the address?

24 A Certainly. Citibank FSB, in care of
25 CitiMortgage, Inc., Post Office Box 9206, MS 81026,



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1 Farmington Hills, MI 48333-9206.

2 Q Great. That's all I need.

3 And then below that it says, Send tax notices
4 to, and I think it's a different address?

5 A Citibank in Saint Louis. Yes.

6 Q Okay. When this deed of trust was recorded on
7 October 16th, 2002, in Placer County Recorder's Office,
8 who would mail -- I take it the original is recorded?

9 A The original is recorded and mailed directly
10 to Citibank.

11 Q Who mails the original to Citibank?

12 A The county.

13 Q Okay. Do you know if the county keeps any
14 records of sending out these original documents?

15 A I don't believe they do, but I'm not sure.

16 Q Okay. You don't know if they have a tracking
17 system or a little book like a notary?

18 A I doubt it. I doubt it.

19 Q Okay. But you know for a fact that it's the
20 county's obligation to send out the original documents
21 as requested on the recorded document?

22 A Yes. Yes.

23 Q Okay. And, again, you said Nicole Miller more
24 than likely filled in these blanks in the full
25 reconveyance because it was -- she was -- it was her

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1 escrow?

2 A It -- not necessarily though. She may have
3 given us the documents to substantiate doing the full
4 reconveyance, and then we filled it in, my assistant or
5 I. It just depends.

6 Q Okay. It could have been you, it could have
7 been your assistant?

8 A It could have been. Or it could have been in
9 her file, which that was not uncommon for them to do.

10 Q Okay. And then the trustor.

11 Do you want to read who the trustor is on the
12 full reconveyance?

13 A Nathan L. Topol, a married man as his sole and
14 separate property.

15 Q Okay. And then do you want to read who the
16 trustor is on the deed of trust?

17 A Nathan L. Topol, a married man as his sole and
18 separate property.

19 Q And that's under Subparagraph B --

20 A B, as in boy, yes.

21 Q -- the first page?

22 Okay. And then it says, Trustor and
23 recorded -- it's now mentioning the original deed of
24 trust, which is Exhibit 2?

25 A Yes.

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1 Q Okay. And it says, And recorded -- what date
2 does it say the -- in the full reconveyance that the
3 deed of trust was recorded on?

4 A It says December 16th, when, in fact, it's
5 October 16th. That's a typo.

6 Q Okay.

7 A 2002. It does reference the correct serial
8 number, so that would supersede the wrong month -- the
9 incorrect month that's on there.

10 Q Okay. Why do you say it would supersede the
11 incorrect --

12 A That's just normally how the county would
13 handle it.

14 Q The county or the recorder's office?

15 A The recorder's office.

16 Q So when you say the county, you mean the
17 recorder's office?

18 A Yes.

19 Q And do the serial numbers on the full
20 reconveyance match up with the serial numbers on the
21 recorded deed of trust?

22 A Yes.

23 Q And do you want to recite those real --

24 A Certainly. 0125157.

25 Q Okay. And then what other information was

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1 filled in on the form, full reconveyance?

2 A The borrow's name, but we talked about that.
3 Other than that it would have -- the rest of it would
4 have been under the serial number, and the recording
5 date would have been preprinted information. I'm sorry.
6 Let me back up on that. Placer, the word "Placer," for
7 Placer County.

8 Q That would have been typed in?

9 A It could have been. It looks like it's not
10 here though. It looks like it's part of the original
11 printing.

12 Q Okay.

13 A I know at one time we were typing in the
14 county, but . . .

15 Q How about in the last paragraph, the two
16 lines, it says, Assistant secretary.

17 Was that part of the form, assistant
18 secretary?

19 A Yes, it is.

20 Q Okay. And on the notary, I think they call it
21 a jurat --

22 A Yes.

23 Q -- in the lower left-hand corner?

24 A Uh-huh.

25 Q Who would have filled out the information

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1 there, such as Placer, the date, the notary name?

2 A The notary.

3 Q And that would be Cari Lemos --

4 A Yes.

5 Q -- at that time?

6 A Uh-huh.

7 Q Okay. And so she's -- has Cari written in
8 Placer?

9 A I'm sorry?

10 Q Is that -- do you think -- do you believe that
11 Cari Lemos has written in all of the handwritten
12 information that's in the lower left-hand corner of this
13 full reconveyance?

14 A In the notary jurat, yes.

15 Q Okay. Okay. On your signature, Kay, do
16 you -- did you normally sign your full first name, your
17 middle name, and your last name?

18 A Yes.

19 Q Did you sign it in any other manner when you
20 signed title company documents that you recall?

21 A Under the title of assistant secretary?

22 Q Right.

23 A I don't -- I wouldn't sign any other
24 documents. But, no, it should be that way.

25 Q Was a full reconveyance the only document that

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1 you would sign as an assistant secretary?

2 A Yes.

3 Q You don't recall any other types of documents?

4 A No. No.

5 Q Generally, is -- how many full reconveyances
6 would you sign as an assistant secretary, let's say, per
7 month?

8 A That's hard to say. I mean it could be none,
9 or it could be 20. It just depends.

10 Q Did you have any kind of book that you would
11 keep track of the full reconveyances that you executed
12 as an assistant secretary?

13 A No.

14 Q Would the only -- would there have been a file
15 more than likely given to you for this transaction that
16 you would review for its contents before signing this
17 full reconveyance?

18 A No, just the documents needed for the
19 reconveyance.

20 Q Would they be in some kind of file folder?

21 A Not always.

22 Q What would you do with the documents, in
23 general, after you signed a full -- after you reviewed
24 all the documents and signed as an assistant secretary
25 in a full reconveyance, what would you normally then do

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1 with the documents?

2 A If they were documents in-house, they would go
3 either to the file that was filed with us, or the file
4 would have been pulled from our storage and put into the
5 original file.

6 If they were documents that came in from
7 another title company that actually did the escrow that
8 paid off the loans or the deeds of trust, then those
9 would go out by certified mail to that title company.

10 Q Okay. Is there any way of finding out,
11 ascertaining from this full reconveyance, if this was
12 from a another title couple or from your --

13 A No. It was an in-house and in Placer County
14 because it was -- Nicole Miller was an escrow officer in
15 my office.

16 Q Okay. So if there were documents that had to
17 be sort of refiled after your review --

18 A Uh-huh.

19 Q -- they would not have gone outside of
20 Sierra Valley, slash, Stewart Title Company?

21 A No.

22 Q They would have stayed in-house somewhere?

23 A In-house, exactly. Either our branch there or
24 storage, which would go through the main office.

25 Q Okay. So if they were kept at the branch, do



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1 you know how long the documents would be kept at the
2 branch, the 3300 Douglas?

3 A It was just a matter of how many files we had
4 and how many -- at any given time, so it -- we had a
5 very small storage area. There was no way to really
6 tell.

7 Q Okay. What would the process be for taking it
8 out of storage at the branch and storing it -- well,
9 where else would it be stored?

10 A Our company had, I think -- I believe it was
11 Iron Mountain at that time that they were using for
12 storage. And it would go through our courier system,
13 which was a person, would take the document -- or the --
14 I'm sorry -- would take the file, our files, to our main
15 office in Carmichael to the title department. And then
16 they would -- they monitored the actual Iron Mountain
17 transactions.

18 Q Would it be stored in Carmichael, or would it
19 then be dispatched to Iron Mountain?

20 A It would then be sent to Iron Mountain.

21 Q Okay. And then do you know what the policy
22 was for how long these records would be maintained at
23 Iron Mountain?

24 A I believe the legal answer to that is seven
25 years, and I know that we probably kept them longer than

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1 that. I'm not -- because I know I was able to get, you
2 know, get files back from Iron Mountain that were older
3 than that for a while. But right before I left, they
4 were shredding documents that were really old.

5 Q How do you know that?

6 A We were all given shred bins. And then in a
7 conversation I had with one of the gentlemen that -- at
8 the title department that were in charge -- that was in
9 charge of the files going to Iron Mountain and keeping
10 track of those and that sort of thing, he was telling me
11 about them -- they were shredding already.

12 Q Would they ask your permission to shred
13 anything?

14 A No. Huh-uh. No.

15 Q Okay. What are shred bins?

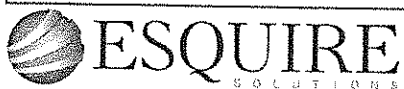
16 A Oh. It was like a big garbage can with a
17 locked lid on it with just a little slit in it where you
18 can put documents in, file folders and that sort of
19 thing.

20 Q But wouldn't those just be at the various
21 branch offices?

22 A Right. But then they're picked up by a
23 shredding company.

24 Q Right.

25 A That shreds them for us. But, yes.



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1 Q Would you have placed these CitiMortgage Topol
2 documents into a shred bin after you were through with
3 them?

4 A No. Well, not from when I was there because
5 that was still within the seven-year time frame.

6 Q Okay.

7 A And what we would normally do is our files
8 would go, we would box them up, write down a record of
9 them. They would go to the main office in Carmichael.
10 And they would then put them, because I think they
11 actually had a different -- another place besides Iron
12 Mountain because we had so many files there.

13 Q So you think they had another facility besides
14 Iron Mountain?

15 A They did as far as I know, but I don't know --
16 I don't remember what that was.

17 Q Okay. But you have no reason to believe --
18 but your normal course -- excuse me -- your normal
19 procedure after reviewing documents instant to you
20 executing a full reconveyance as an assistant secretary
21 was, if they were in-house, is to return them to the
22 file?

23 A Yes.

24 Q Okay. Would you do that, or your assistant
25 would do that, or you would -- how did you do it?

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1 A Either we did that, my assistant or myself, or
2 the escrow officer whose file it was would do that.

3 Q Okay. That had the file?

4 A Right.

5 Q Okay. And then would the escrow officer then
6 dispatch that file to Carmichael and they would then put
7 it with Iron Mountain or some other storage facility?

8 A If it was old enough -- if was there was no
9 room in the backroom. Let's put it that way. Because
10 our storage in the back in that particular office was
11 limited.

12 Q Okay. And, again, your normal procedure for
13 executing a full reconveyance was to have some evidence
14 of a recorded deed of trust?

15 A Yes.

16 Q The original note?

17 A Yes.

18 Q A substitution of trustee?

19 A When it applies, right.

20 Q When it applies?

21 A Yes.

22 Q I assume that if --

23 A In this case, it should have applied, yes.

24 Q Right. But if Sierra Valley had been on a
25 deed of trust, then you wouldn't have worried about

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1 that --

2 A Right.

3 Q And then a request for reconveyance?

4 A Yes. Signed by the beneficiary.

5 Q In this case it would have been --

6 A CitiMortgage.

7 Q -- CitiMortgage?

8 A Yes.

9 Q Okay. On the full reconveyance document on
10 Exhibit No. 1 --

11 A Yes.

12 Q -- on the upper left-hand corner it says,
13 Recording requested by Sierra Valley Title Company and
14 when recorded mail to -- now, who is -- who would have
15 filled in that information in the upper left-hand
16 corner?

17 A The recording requested by Sierra Valley
18 Title, that's just a stamp that the county has.

19 Q Right.

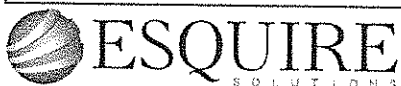
20 But below that?

21 A Oh, below that?

22 It would have been typed in by whoever
23 prepared the full reconveyance.

24 Q Someone in your office?

25 A Uh-huh.



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1 Q Okay.

2 A At that point, yes.

3 Q Okay. And do you want to read that name and
4 address as to where it's mailed to after being recorded?

5 A Certainly. Citibank FSB, in care of
6 CitiMortgage, Inc., Post Office Box 9206, MS 81026,
7 Farmington Hills, MI 48333-9206.

8 Q And is that the same name and address on the
9 full reconveyance that appears on the deed of trust in
10 the upper left-hand corner for, When recorded mail to?

11 A Yes.

12 Q Okay. On the full reconveyance upper -- sort
13 of upper right, it says, Title order No. 506527?

14 A Yes.

15 Q That seems to have six -- the same numbers in
16 the escrow number?

17 A If the property is in Placer County, it would
18 have the same number as our escrow number, which are
19 the -- just the five -- the six digits before the
20 initials.

21 Q The 506527?

22 A Uh-huh.

23 Q Okay. And the -- on the escrow number, what's
24 the DG stand for?

25 A Douglas, because it was Douglas Boulevard.



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1 Q Okay. And the 54 stands for?

2 A Our actual office address, 3300 Douglas.

3 Q And you give that a designation of 54?

4 A Yes. The company did.

5 Q Okay. And then the escrow number would be
6 the 506527?

7 A Yes.

8 Q And then the NM, of course, is Nicole Miller
9 in this case?

10 A Yes.

11 Q Anything else in this document -- except for
12 the top up here, this top case number, that's bankruptcy
13 related. I'll tell you that now.

14 A Yes. Okay.

15 Q Is there anything else in this document that
16 is -- that you want to remark about or is -- causes you
17 to recollect anything at the time you --

18 A No.

19 Q -- supposedly signed this?

20 A No.

21 Q Do you know who Nathan Topol is,
22 Nathan L. Topol?

23 A No.

24 Q Have you ever heard this name before today?

25 A Norma.

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1 Q Oh, Norma.

2 Again, my paralegal?

3 A That was the first time.

4 Q I assume you have never met Nathan Topol?

5 A No.

6 Q Have you ever met a Topol family member?

7 A Not that I'm aware of, no.

8 Q Ever met a Steve Topol?

9 A No.

10 Q Peter Topol?

11 A No.

12 Q Judy Topol?

13 A No.

14 Q How about Byron Topol?

15 A No.

16 Q Samantha Topol?

17 A No.

18 Q B.J. Topol?

19 A No.

20 Q David Topol?

21 A Big family.

22 No.

23 Q Tamara Topol, or Tammy Topol?

24 A No.

25 Q Virginia Topol?



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1 A No.

2 MR. HARRIS: Let's take a couple-minute break. I
3 just want to talk to the trustee.

4 (Brief recess taken.)

5 BY MR. HARRIS:

6 Q Kay?

7 A Yes.

8 Q You -- in your procedures you have a fully
9 filled out full reconveyance awaiting your signature in
10 general, and you've said that some of the things, some
11 of the documents -- the documents that you required
12 before you sign in front of a notary as assistant
13 secretary of the title company is you stated that one of
14 the things you would check is a request for
15 reconveyance?

16 A Yes.

17 Q Okay. And who -- would this be an executed
18 request for reconveyance?

19 A Yes, by the beneficiary.

20 Q And that would be, in this case, by
21 CitiMortgage?

22 A Yes.

23 Q Citibank?

24 A Citibank. Yes.

25 Q Would there be any circumstance -- let's say



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1 you had everything else but you didn't have a request
2 for reconveyance duly -- would it be signed by a notary
3 or not by a notary?

4 A Not by a notary.

5 Q Okay. So let's say would there be any
6 circumstance that you would execute a full reconveyance,
7 in general, in general, without an executed request for
8 reconveyance in front of you?

9 A No.

10 Q And then another thing you said you needed to
11 have in front of you before you signed as an assistant
12 secretary of the title company on a full reconveyance is
13 that you would require, if applicable, a substitution of
14 trustee duly executed?

15 A Yes.

16 Q Okay. And this would be in the event that the
17 deed of trust did not -- the trustee on the deed of
18 trust did not match the request for reconveyance --

19 A No.

20 Q -- beneficiary?

21 A No. If it was being sent to us for -- to
22 reconvey, we're not able to reconvey unless we're
23 substituted in --

24 Q Okay.

25 A -- because Citibank is the trustee.

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1 Q Okay. So in the request for reconveyance,
2 would the beneficiary be signing that?

3 A Yes.

4 Q Okay. And if the beneficiary was also the
5 trustee, what -- they would -- and they wanted the title
6 company to sign the reconveyance, full reconveyance,
7 they would do a substitution of trustee?

8 A Yes.

9 Q Okay. On a substitution of trustee, would
10 that be notarized?

11 A Yes.

12 Q Okay. So in an instance where you received a
13 request to sign a full reconveyance by the title company
14 and it did not match the deed of trust, if you didn't
15 get a substitution of trustee your normal procedure
16 would -- not to sign a full reconveyance --

17 A Exactly.

18 Q -- and ask more questions?

19 A Yes.

20 Q Okay. And then what if you didn't have --
21 what if you had everything else -- what if you have
22 everything but the original note, let's say you had a
23 duly signed request for reconveyance, a duly signed
24 substitution of trustee, hypothetically?

25 A Uh-huh.



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1 Q And evidence of the deed of trust but you
2 didn't have the original note, would you, in general,
3 sign a full reconveyance?

4 A No.

5 Q Would there be instances that you would be
6 provided the original note at a later point in time
7 after recordation?

8 A We wouldn't accept it. We wouldn't record it
9 without that.

10 Q Without the original note in your possession?

11 A Absolutely. Uh-huh.

12 Q Would there be any instances that you would
13 record a full reconveyance without the presence of an
14 original note?

15 A No.

16 Q What -- has there ever been an instance where
17 the beneficiary in your experience -- in general, was
18 there ever an instance where the beneficiary wanted to
19 take the deed of trust off, at least the deed of trust
20 in the record, but still have the note in effect?

21 A Not that I'm -- not that I remember or am
22 aware of.

23 Q Okay. Are there any other documents that you
24 would want from a beneficiary or a lender before you
25 executed a full reconveyance other than the original

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1 note, executed substitution of trustee, if applicable,
2 executed request for reconveyance, and some evidence of
3 a deed of trust?

4 A No. Huh-uh.

5 Q You wouldn't necessarily require the original
6 deed of trust?

7 A No. Because that would be of record. We
8 could get a recorded copy --

9 Q Okay.

10 A -- if we didn't have one in our file. And if
11 we have a base file, there would have been a copy of it
12 in there that we could affix the recording information
13 on.

14 Q Would there be any -- and, again, in your
15 review of the file records before signing the full
16 reconveyances as an assistant secretary, would you ever
17 receive a letter of instructions from the beneficiary or
18 a lender?

19 A We might have received a letter from a lender,
20 but it would have been kind of a rare occurrence. I --
21 I rarely, if ever, sign reconveyances for full
22 beneficiaries, lenders.

23 Usually we would get their full -- normally,
24 on a lender like Citibank, or, say, Chase Mortgage or
25 whatever, once that loan is paid in full, they would



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1 send us the document, full reconveyance, to record as
2 opposed to having us prepare one.

3 Q Okay. Would they also send you the original
4 note?

5 A No. Not in that case. They don't have to at
6 that point.

7 Q What do you mean?

8 A Well, if they're sending us this, we're just
9 recording this for them.

10 Q This, being the full reconveyance?

11 A The full reconveyance. I'm sorry. Yes.

12 Q Okay.

13 A Yeah.

14 Q So if they had signed the full reconveyance
15 and just asked you to record it, you wouldn't go through
16 any real examination?

17 A No. Because they're the trustee stating that
18 it's been paid on this document so we wouldn't need --
19 in the full reconveyance document we wouldn't need
20 anything other than the letter of instruction.

21 Q Okay. So assuming -- back to the instance
22 where there was a substitution of trustee, you would
23 require the original note?

24 A Yes.

25 Q Okay. Would there -- when you have the

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1 original note in front of you, would you require any
2 kind of notations on the note by the lender?

3 A No. The full reconveyance -- the lender
4 would -- on the deed of trust there is -- I'm sorry.
5 I'm bouncing around. There is normally a place on the
6 deed of trust that has a page that says, Request for
7 full reconveyance. And I don't see it here. So that
8 could be something that I remembered.

9 If not, there's a form that we provide to them
10 for them to sign requesting the full reconveyance for
11 us. That would be the only notation we would need along
12 with the original note.

13 Q And, again, it's the request for full
14 reconveyance, right?

15 A Would be signed by the existing beneficiary --

16 Q Right.

17 A -- whether it be an individual or
18 institutional.

19 Q Okay. Just one second.

20 A Uh-huh.

21 Q On a substitution of trustee document, which
22 in the instance of Exhibit 1 you would -- you just
23 stated you would need because you weren't the trustee
24 under the original deed of trust?

25 A Right.



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1 Q Okay. Would you -- would you -- would the
2 title company, your office, normally have recorded the
3 substitution of trustee, or would it have been
4 previously recorded?

5 A It could have been either way.

6 Q Have you ever heard of instances in your
7 tenure at the title company where other recorder's
8 offices misrecorded something?

9 A Certainly.

10 Q How do they go about locating a misrecorded
11 document?

12 A They usually don't.

13 Q It's lost?

14 A Uh-huh. Yes.

15 Q Do you know if there's any way that the
16 recorder's office can go through, like, let's say, a
17 particular date, time span, let's say, a December '03
18 through January of '04 and search all the documents that
19 were recorded just in that time frame?

20 A Certainly. I think -- I believe they do. I
21 haven't seen it. But I'm sure they have some system for
22 that.

23 MR. HARRIS: I don't have any other questions at
24 this time.

25 But do you have some, Chris?

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1 MR. McDERMOTT: I do.

2 MR. HARRIS: Okay. Do you mind if I maybe reserve
3 the right to ask questions after you're through, and if
4 you want to ask more after I'm through, you can?

5 MR. McDERMOTT: Sure. Yeah. No problem.

6 MR. HARRIS: Is that okay?

7 MR. DEMETRAS: Yeah. That's fine.

8 MR. HARRIS: I'm fine for now.

9 Do you want to go -- who wants to go next?

10 MR. McDERMOTT: I can go.

11

12 EXAMINATION

13 BY MR. McDERMOTT:

14 Q As Mr. Harris said earlier, I'm
15 Chris McDermott. We represent -- I represent
16 CitiMortgage. I'll do my best not to be too duplicative
17 of a lot of Mr. Harris' questions. Mine might be
18 slightly different, but I'm just -- so if I ask
19 something that it sounds like you've already answered
20 it's just because I'm trying to get really clear what
21 the situation is.

22 A Okay.

23 Q So you indicated that Stewart Title -- Stewart
24 Title owned Sierra Valley, and at one point
25 Sierra Valley started -- the name -- there was no longer



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1 documents in the name of Sierra Valley after -- at some
2 point in 2002 or 2003, they were all in the name of
3 Stewart Title?

4 A Yes.

5 Q So Stewart Title would be like the parent
6 company of Sierra Valley?

7 A Exactly.

8 Q Okay. How, generally, would -- so if I refer
9 to -- going forward I'll just refer to it as Stewart
10 Title, but I might -- I'll use them kind of
11 synonymously.

12 How, generally, would Stewart Title receive a
13 request for reconveyance? Would it usually be through
14 the escrow process?

15 A Yes.

16 Q Would Stewart Title receive a request for a
17 reconveyance if it didn't handle the escrow for the loan
18 transaction?

19 A Not if we weren't the trustee on the deed of
20 trust.

21 Q Okay.

22 A Usually if their first transaction was handled
23 by Stewart --

24 Q So if Stewart Title didn't handle the escrow,
25 would it receive a request -- were there cases where it

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1 would receive a request to process a reconveyance?

2 A We'd only receive a request if Stewart or
3 Sierra Valley were the trustees.

4 Q Okay.

5 A So normally we would have had to have handled
6 an escrow, prepared the actual document, note and deed
7 of trust and that sort of thing.

8 Q So --

9 A It's unusual for an institutional lender.

10 Q Okay. And I know you've commented earlier
11 maybe on how often you would do this.

12 But how often would Stewart Title receive
13 requests for lien reconveyances?

14 A It's really hard to say because I don't -- we
15 had 14 offices. I don't know how many they would get.
16 There's no exact, you know, we get two on Tuesdays or
17 that sort of thing. I mean it could be we could get
18 some in the mail, it could come from other offices.

19 Q Okay.

20 A There's all kinds of avenues of receiving it,
21 so there's no way for me to even say how many we get.

22 Q Okay. How common was it for Stewart Title to
23 be either an originating trustee on a deed of trust or a
24 substitute of trustee on a deed of trust?

25 A That's another one of those questions that --

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1 Q Would you say it was more common for it to be
2 an original or a substituted trustee, one or the other?

3 A No.

4 Q Okay.

5 A Because the only way we would be a trustee on
6 original documents is if it was individuals doing the
7 loan, you know, a seller carryback, that sort of thing.
8 That's the only time we would prepare a note and deed of
9 trust. Other than that, it would be institutional
10 lenders.

11 Q Okay.

12 A And the majority, at the time when I was
13 there, the institutional lenders had their own trustees,
14 usually in-house companies.

15 Q Okay. Got it.

16 So can you explain just kind of generally what
17 was Stewart Title's process when it received a request
18 for a reconveyance?

19 A Certainly. If the file was not handy, the
20 file would be ordered from -- if it was in storage or if
21 the main office received a request and the file was out
22 in Douglas, they would request that file.

23 And then they would again review the documents
24 that were surrendered to them, should be the original
25 deed of trust -- not -- if not the original, a certified



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1 copy of it with recording information on it, the
2 original note, original request for full reconveyance.

3 Q Now, when you say they, do you mean the escrow
4 officer?

5 A It depends on what -- where it was going
6 within the Stewart offices.

7 Q Okay.

8 A But, yeah. If it went to the original
9 officer, that would be fine. If this went to the title
10 department, they would send it out to the office that
11 originated the file.

12 Q Okay. And your role in the process was, and
13 you can correct me if I'm wrong, was once you received
14 all of the documents that were part of the reconveyance
15 request --

16 A Uh-huh.

17 Q -- you would -- if the reconveyance needed to
18 be filled out, you would fill it out, or you would just
19 process the recordation of the reconveyance?

20 A I would process the recording.

21 Q Now, so you would --

22 A I would sign it and then --

23 Q So you would receive the completed
24 reconveyance, you would sign it, and then facilitate
25 getting it recorded?



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1 A But I would verify documentation to back up
2 that reconveyance.

3 Q So when you signed the reconveyance, you would
4 verify that you had the original note, all of the items
5 you listed --

6 A Yes. Yes.

7 Q -- and would you also verify what was already
8 filled out in the reconveyance was accurate, or would
9 you just assume whoever filled it out before you
10 accurately did it?

11 A If I didn't have backup information on that, I
12 would assume that it was correct because it came from
13 the escrow that did the original escrow --

14 Q Okay.

15 A -- that did the transaction.

16 Q Okay. Now, I know you threw out some names
17 previously.

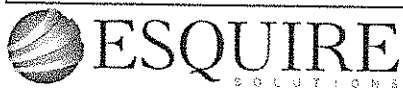
18 But who else that currently works at Stewart
19 Title would have information who would be able to
20 discuss this process of how the lien reconveyances are
21 handled?

22 A I would imagine anybody at the title company.

23 Q Okay.

24 A I mean at the title office in Carmichael.

25 Q Okay. Now, the process that you've just



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1 described -- that we've kind of talked about and you
2 described regarding how the lien reconveyances were
3 processed --

4 A Uh-huh.

5 Q -- is it generally the same if Stewart Title
6 is the originating trustee or the substituted trustee?

7 A Yes.

8 Q The only difference would be there's the extra
9 document of the substitution of trustee?

10 A Yes.

11 Q Would there be a notation in Stewart Title's
12 business records if it received a request for a
13 reconveyance, like a electronic notation?

14 A Not that I'm aware of.

15 Q So it would just be a physical paper file?

16 A Yes.

17 Q And that would be the same whether it's the
18 originating trustee or the substituted trustee?

19 A Yes.

20 Q So it sounds to me once the reconveyance
21 request -- once the lien reconveyance is requested, the
22 process might change based on whether the lender
23 provides the executed reconveyance or whether they've
24 asked Stewart Title to handle that and fill it out and
25 verify all of the documentation is received?

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1 A Yes.

2 Q So in your experience, if Stewart Title was
3 not the originating trustee, would it record a lien
4 reconveyance without a recorded trustee -- substitution
5 of trustee?

6 A Not that I'm aware of.

7 Q So when you received the request to execute
8 the full reconveyance --

9 A Uh-huh.

10 Q -- would you make sure you had a copy of an
11 executed -- of a recorded substitution of trustee, or
12 did it just need to be executed and then you would
13 record the executed substitution of trustee?

14 A It would either be the case normally where we
15 would have the original substitution of trustee to
16 record or be provided a certified copy of the one that
17 has recorded.

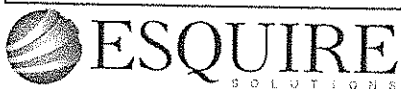
18 Q And so if you received a substitution of
19 trustee that was not recorded but it was the original to
20 record --

21 A Yes.

22 Q -- you would -- you would record that before
23 or after the full reconveyance was recorded or --

24 A Prior to.

25 Q Prior to?



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1 A Yes.

2 Q Okay. And then if Stewart Title received a
3 request to reconvey a lien and it was not the
4 originating trustee and there was no recorded
5 substitution of trustee on record, would Stewart Title
6 prepare a substitution of trustee?

7 A It's possible.

8 Q So in some cases it would?

9 A Yes.

10 Q And in other cases, maybe the beneficiary had
11 prepared the substitution of trustee?

12 A Possibly.

13 Q Okay. Did you ever personally prepare the
14 substitution of trustees if one needed to be done before
15 a lien reconveyance?

16 A If I did, it was only at the request of the
17 lender.

18 Q So was there --

19 A But, no.

20 Q Would -- so would you say, generally, most of
21 the time, if Stewart Title -- if there was a
22 substitution of trustee that subbed in Stewart Title,
23 one was already prepared before it got to you?

24 A Yes. I'm sorry. You got that -- if it was an
25 institutional lender, yes.



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1 Q Okay. And if it wasn't an institutional
2 lender --

3 A If it was an individual, not necessarily.

4 Q So if it was an individual, there may be cases
5 where you would receive the file and you would have to
6 prepare the substitution of trustee?

7 A But that would be rare because normally they'd
8 go back to -- the documents would go back to where the
9 original escrow was, and that may not be the case.

10 Q Okay. Were there other -- was there ever
11 times when either you or Stewart Title inadvertently
12 recorded documents without the authority to do so?

13 A I'm sure.

14 Q Do you recall --

15 A I mean not that I'm aware of specifically.
16 But that's kind of the nature of -- it just happens
17 sometimes with title companies.

18 Q You mean just in this sort of industry
19 mistakes happen and it's just part of the --

20 A I think everyone is a human being, and human
21 beings make mistakes.

22 Q Now, you indicated previously that generally
23 the full reconveyance had been prepared before it got to
24 you, and you would generally sign it and then process
25 the recording of it?



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1 A Right.

2 Q And so would you -- and I -- I -- just for
3 clarification purposes, would you go back and verify
4 that the full reconveyance referred to the correct
5 trustee, the correct date of the deed of trust, the
6 correct serial number of the deed of trust and so on, or
7 would you rely on whoever prepared it before you that it
8 was accurate?

9 A A little bit of both. But I would have -- in
10 order to sign one, it was common practice that I had all
11 the documents there to look at, so I would rifle through
12 those.

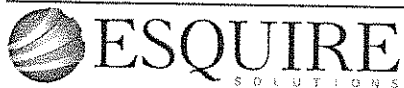
13 Q Okay.

14 A Look through them.

15 Q And then prior to you recording the
16 reconveyance, was there -- since you were the office
17 manager, was there anybody -- supervisor or anybody
18 above you that would do a final check before it was
19 recorded, or were you kind of the last person to review
20 it?

21 A It's depends on which office it came from. If
22 it was in-office, I would send it back to the -- if it
23 was the escrow officer in our office, it would go back
24 to her to record.

25 Q Okay.



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1 A Not necessarily to be checked, but just to get
2 it recorded. And then if it came from another office,
3 it would go back to them for recording.

4 Q Okay.

5 A That way they had the documents in their
6 file -- copy in their file when they sent the original
7 up to record.

8 Q So under either scenario after you executed it
9 you would send it back to someone else to record it?

10 A If it was not in my office, yes.

11 Q Okay.

12 A Yeah.

13 Q Now, I know you went through the checklist of
14 items that you would require --

15 A Uh-huh.

16 Q -- and Stewart Title would require to record a
17 reconveyance.

18 Was this a law that you were aware of, or was
19 this just Stewart Title's policy to require these
20 certain documents before recording, executing a
21 reconveyance?

22 A It's common practice in the industry.

23 Q Okay. And based -- to the best of your
24 knowledge, did you ever execute a reconveyance without
25 having all of those items?

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1 A No.

2 Q To the best of your knowledge, were you aware
3 of whether Stewart Title ever executed a reconveyance
4 without having all those items?

5 A No.

6 Q And are there any circumstances when it would
7 not execute a reconveyance without all of those items?

8 A I have no idea.

9 Q Okay. But to your knowledge you have never
10 executed a reconveyance without having all of those
11 items?

12 A As well as I can remember.

13 Q Okay. Sure. Now, once the reconveyance is
14 recorded --

15 A Uh-huh.

16 Q -- is there a process by which Stewart Title
17 notifies the beneficiary that's it's been recorded, or
18 does it just rely on the county to mail it a copy?

19 A It depends on the individual escrow officer
20 that gets the reconveyance back.

21 Q Okay.

22 A What she would normally do. But if it's --
23 yeah -- private parties, then you might do that. If
24 it's an institution, you might just rely on the county
25 to send the recorded document to them.



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1 Q Okay. So your role as assistant secretary in
2 this -- in a full reconveyance, you wouldn't -- once
3 you've sent it to get recorded, you wouldn't contact the
4 lender or the beneficiary --

5 A No.

6 Q -- to let them know it was recorded?

7 A No.

8 Q And so in this case, when you say the escrow
9 officer may notify, that would be Nicole Miller in this
10 case?

11 A Yes.

12 Q Okay. And is Stewart Title paid for preparing
13 a reconveyance?

14 A Every title company collects a trustee fee.

15 Q Okay. And I know you kind of walked through
16 the process of how Stewart Title retains its documents.

17 So just so I'm clear, it -- once the file is
18 completed, it would send the file to Carmichael, which
19 is the main branch. And then Carmichael would send the
20 file to Iron Mountain to hold for -- in your estimation
21 seven years?

22 A Okay. Let me kind of reiterate part of that.

23 If we're receiving a reconveyance in -- or
24 documents into executed reconveyance on an escrow that
25 we held in-office -- say, for instance, this one. The

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1 original escrow was in 2002. The request for
2 reconveyance was done in 2004. That may have
3 actually -- that office -- that file may have actually
4 been in-office still. So it would go back to the file
5 room within that office.

6 Q Okay.

7 A If the file had already been sent to storage,
8 then it would go to -- it would be sent to our main
9 office in Carmichael, and then they would send it out to
10 Iron Mountain or other storage facility at the time.

11 Q Okay. Now, just getting to this specific
12 reconveyance.

13 I know you kind of explained the process where
14 once it got to you you had all the documents that were
15 provided by the escrow officer?

16 A Uh-huh.

17 Q You make sure the documents were there before
18 you signed the reconveyance?

19 A Yes.

20 Q It seemed like it wasn't always clear whether
21 you would rely on what the escrow officer filled out
22 before, or sometimes you would -- you know, even though
23 you had the file right there you would go and verify the
24 recording number, the serial number. If -- so going
25 back to Exhibit 1.



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1 By signing this reconveyance, that would mean
2 that you had verified that you had a -- you had received
3 an executed request for reconveyance from the
4 beneficiary?

5 A Yes.

6 Q The original note from the beneficiary?

7 A Yes.

8 Q A substituted trustee that substituted in
9 Stewart Title or Sierra Valley?

10 A Uh-huh.

11 Q That would -- by executing this that would
12 mean that you had all of these items?

13 A By executing that it states that I have
14 everything I need necessary to record the full
15 reconveyance.

16 Q So that would also mean that you verified that
17 Stewart Title was the trustee under the deed of trust?

18 A Yes.

19 Q And how would -- would you verify that by
20 seeing if there was a substituted trustee?

21 A Yes.

22 Q Would that be the only way you would be able
23 to verify if Stewart Title was the trustee under the
24 deed of trust?

25 A As far as I know, yes.



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1 Q Okay. Sorry. I don't want to ask you stuff
2 you've already answered.

3 A That's okay.

4 Q So I know we went through this a little bit
5 earlier. Going back to Exhibit 1.

6 The recording date referenced in Exhibit 1 for
7 the deed of trust says December 16th, 2002?

8 A Yes.

9 Q Where the actual recording date for the deed
10 of trust was October 16th, 2002?

11 A Yes.

12 Q And I think earlier you indicated that was a
13 typo?

14 A I'm assuming it was a typo. But, yes.

15 Q And it also indicates that Sierra -- that --
16 Exhibit 1 also indicates that Sierra Valley is the
17 trustee under the deed of trust.

18 Based on that and because Sierra Valley is not
19 the trustee under the deed of trust, would I -- would
20 the assumption be correct that you saw a substitution of
21 trustee before signing this?

22 A Yes. The assumption would be that there was a
23 substitution of trustee. It might have been of record.

24 Q Is there a possibility, based on your review
25 of this full reconveyance, that it was not for this deed

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1 of trust?

2 A I'm sorry?

3 Q Is there a possibility based on your review of
4 this full reconveyance that it was not intended for
5 Exhibit 2, for the deed of trust? Could it potentially
6 be that this reconveyance was for another lien or
7 another deed of trust?

8 A Not that -- not that I would think. No.

9 Q Okay. So your review of this full
10 reconveyance --

11 A Yeah.

12 Q -- you believe it was for --

13 A I can't --

14 Q -- Exhibit 2?

15 A Because the recording information, I mean the
16 date was wrong. The series number is the same.

17 Q If you were still working for Stewart Title --

18 A Uh-huh.

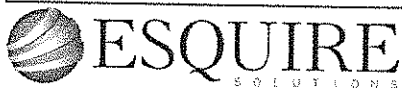
19 Q -- and you had seen a copy of the -- this full
20 reconveyance --

21 A Uh-huh.

22 Q -- and you saw that it referenced the wrong
23 recording date --

24 A Uh-huh.

25 Q -- would you have done anything to correct it?



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1 A I would probably check with Citibank because
2 they would have the original mailed to them to see if
3 they wanted it rerecorded to correct that date.

4 Q And then if they said, No, it's not a big
5 deal, don't worry about it, you wouldn't have done it?

6 A No.

7 Q Okay.

8 A If the series number wasn't on there, then we
9 would have had to.

10 Q I know you previously indicated you didn't
11 know any of the Topols, you didn't recognize this file
12 other than, you know, it looks like your signature?

13 A Uh-huh.

14 Q Do you recall if you were ever contacted by
15 anybody regarding this reconveyance indicating it
16 shouldn't have been recorded?

17 A No, I don't remember.

18 MR. HARRIS: Other than my office.

19 THE WITNESS: Oh. Other than Norma. Yes. No.

20 BY MR. McDERMOTT:

21 Q Okay. All right. Just a few more questions.

22 During your tenure at Stewart Title, did you
23 ever mistakenly record any documents?

24 A I'm sure.

25 Q Were you alerted --

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1 A I don't remember but --

2 Q Well, were you alerted -- if you did make the
3 mistakes, were you alerted to those mistakes?

4 A Oh, absolutely.

5 Q So, generally, you can recall instances where
6 you recorded a document that shouldn't have been
7 recorded and you were alerted of it?

8 A Sure.

9 Q And then in those instance what -- how -- what
10 did you do to correct the situation?

11 A Either we were able to obtain the original
12 document to rerecord it, or to record a new document to
13 replace that document.

14 Q Okay. Do you recall if you ever recorded a
15 full reconveyance where it shouldn't have been recorded?

16 A I don't remember.

17 Q Do you recall if anybody at Stewart Title
18 while you were there, not you, recorded a full
19 reconveyance and it shouldn't have been recorded?

20 A I honestly don't remember.

21 Q Okay. And when -- in the instances where you
22 recorded something and it may have contained a mistake,
23 generally how were you alerted of those mistakes?

24 A If it didn't come from the county, which by
25 that point it would be too late to do anything about the

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1 document unless they caught it before it physically
2 recorded, because they review documents too, then, if
3 the principal involved, once they received whatever
4 document it was, if they noticed it they would take care
5 of it then.

6 Q Okay. So it would generally come from like
7 the beneficiary or the lender or --

8 A Yes.

9 Q Okay. And then it would be up to them whether
10 they wanted to take any action to correct the mistake?

11 A Yes.

12 Q During your tenure at Stewart Title, do you
13 recall ever working regularly with anybody at
14 CitiMortgage?

15 A No.

16 Q Do you recall working regularly with anybody
17 at CitiMortgage regarding reconveyance requests?

18 A No.

19 Q Do you recall how -- well, specifically, for
20 CitiMortgage, would they be one of these institutional
21 lenders that would provide, generally, an executed
22 reconveyance, or would they ask Stewart Title to prepare
23 and execute the reconveyance?

24 A Most it's -- I'm going to give you kind of a
25 general answer.

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1 Q Sure.

2 A But most institutional lenders prepare their
3 own.

4 Q So -- and you -- in your estimation Citi was
5 one of those lenders that would generally prepare their
6 own?

7 A I honestly don't know.

8 Q Okay.

9 A And I can assume so, but I don't know for
10 sure.

11 Q Okay.

12 A Long time ago.

13 Q Sure. No. No. I -- I -- yeah.

14 During your tenure at Stewart Title, were you
15 ever disciplined or reprimanded for any errors or
16 mistakes?

17 A I'm sure I was.

18 Q Do you recall any of those specific instances,
19 or do you just remember --

20 A No.

21 Q -- it occurred at some point?

22 A I'm sure I made mistakes.

23 Q Well, were you ever disciplined or reprimanded
24 for those mistakes?

25 A Other than somebody talking to me about it. I

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1 mean that's --

2 Q Who would have --

3 A -- I'm assuming.

4 Q Who would have talked to you about it?

5 A This is all going off of an assumption --

6 Q I know it's a long time ago. Yeah. Yeah.

7 A Well, it would have been either my immediate
8 supervisor, who was the county manager, Clark Davenport.
9 I don't believe the president of the company or anything
10 ever reprimanded me.

11 Q And did you say Clark Davenport was still --

12 A He's still there.

13 Q -- still there?

14 A Yes.

15 Q And what was his title again?

16 A He's now county manager of all Sacramento and
17 Placer County operations.

18 Q And what office is he located in?

19 A He's in one of the Roseville offices.

20 Q Okay.

21 A I can give you the phone number. I think you
22 can get him through the other office I used to be in.

23 Q Okay.

24 A But it's (916) 783-8845.

25 Q Okay. Now, I know you indicated that you were



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1 an office manager at Stewart Title for about 25 years,
2 right?

3 A Yes.

4 Q Were you ever promoted or advanced within
5 Stewart Title due to your performance?

6 A Well, when I went to work there, I was a
7 branch manager/office manager. So that was kind of as
8 high as you could go there. I was -- other than given
9 the title of assistant secretary, I think I was a vice
10 president for a while.

11 Q Okay.

12 A That sort of thing.

13 Q And then I think my last question, so you
14 indicated you retired from Stewart Title in 2010, right?

15 A Yes.

16 Q And that was just retirement.

17 You were --

18 A Actually, I was technically laid off.

19 MR. McDERMOTT: Okay. All right. Well, I think
20 those are all the questions I have.

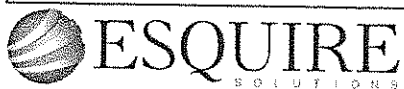
21 THE WITNESS: Okay.

22 MR. DEMETRAS: So I have a couple questions.

23 THE WITNESS: Certainly.

24 ///

25 ///



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EXAMINATION

BY MR. DEMETRAS:

Q We're all confused about the file and where it went.

So if you look at Exhibit 2, the deed of trust, handwritten is this file number. All right.

And so could you tell me again what's the 34?

A The 34 designates the branch in Roseville, because we had more than one branch number.

Q And the 50 --

A Oh, I'm sorry. The 506527?

Q That's the file?

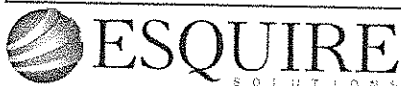
A That's the actual escrow number, file number.

Q Okay. So in 2002 there was then an actual file that had, what, the original note? What would be in the original file in 2002?

A Okay. This appears to have been an institutional lender, so the original note would have gone back to the lender as well as all the original documents except the deed of trust. That would have been recorded through this file at the county. And a copy of all the other documents would be in the file.

Q So your file then would have a copy of all the original documents?

A Yes.



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1 Q And a deed of trust?

2 A Yes.

3 Q All right. So then two years later there's
4 this reconveyance, right?

5 A Yes.

6 Q And it's in the same office with the same
7 people?

8 A I don't believe they actually did the escrow,
9 because I'm also seeing this number here, which I don't
10 recognize.

11 Q Which number is that?

12 A I'm sorry. It's under all of the addresses on
13 the deed of trust on Item 2.

14 Q Right.

15 A It's 022107722-RR --

16 Q Yes.

17 A That, to me, and I don't know for sure, looks
18 like another escrow officer but from another company.
19 I'm just not sure what that number is.

20 The documents, again, would have been
21 surrendered as the trustee, which doesn't show on there,
22 for issuance, so . . .

23 Q So in looking at this deed of trust, can you
24 tell where the documents were, the copies of the
25 documents? Were they at Sierra Valley with

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1 Nicole Miller, or were they with this RR number down
2 here?

3 A No. They should be -- the documents on this
4 loan should be at Sierra Valley/Stewart with
5 Nicole Miller -- or in this file, which I understand has
6 now been shredded.

7 Q Well, that's -- I'm coming to that question.

8 A Sorry.

9 Q Okay. So there's the file?

10 A Uh-huh.

11 Q So was there ever a time where you would rely
12 on your staff to do a full reconveyance without looking
13 at the file?

14 A No.

15 Q So you would -- before you signed this, you
16 would have looked at your file?

17 A Yes.

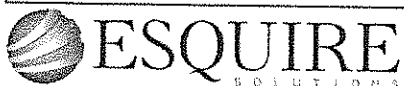
18 Q Nicole Miller's file?

19 A Yes.

20 Q Okay. And so that's in 2004?

21 A Yes.

22 Q And so how long after all these documents were
23 signed -- now, I'm assuming then the file would then
24 have a request for reconveyance -- the file that you had
25 now in addition to those copies of the original loan



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1 docs would have these other documents that we have --

2 A Exactly.

3 Q -- right?

4 A Yes.

5 Q And so every time you did one of
6 these, especially with this one, you would have looked
7 at the file, signed the reconveyance --

8 A Uh-huh.

9 Q -- and then given the file back to
10 Nicole Miller?

11 A Yes.

12 Q Okay. So then that's in 2004?

13 A Yes.

14 Q Okay. Then would Nicole Miller send it to
15 storage?

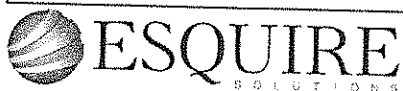
16 A If there wasn't sufficient room in the office
17 at that time in the file room in the back -- in other
18 words, if she had to get the file from storage, it would
19 go back to storage, yes.

20 Q But you said earlier it may have still been in
21 the office?

22 A It could have. It just depends on how many
23 files they had in the backroom.

24 Q Okay.

25 A And I don't remember.



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1 Q So when a file goes back to storage to Iron
2 Mountain --

3 A Uh-huh.

4 Q -- is there a person in the office that is in
5 charge of sending files back? And is there a computer
6 program which lists the file transfers?

7 A The file when I -- the files when I was there
8 went through a gentleman by the name of Mike Greco --

9 Q Okay.

10 A That's G-r-e-c-o.

11 -- at our Stewart office in Carmichael, the
12 main office, the one on Fair Oaks Boulevard.

13 Q Okay. So then they would leave -- the file
14 would leave Douglas --

15 A Uh-huh.

16 Q -- and go to Carmichael?

17 A Yes.

18 Q Okay. And then from Carmichael, it would go
19 to storage?

20 A Yes.

21 Q So Mike Greco in Carmichael would have to
22 notify Iron Mountain to come to pick up the box?

23 A Absolutely.

24 Q Right?

25 A Yes.



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1 Q And so does Iron Mountain have a computer
2 program where they list files going in and out?

3 A I never saw that, so I don't know.

4 Q Okay.

5 A I've never seen that.

6 Q Would Mike Greco know that?

7 A He would, but I don't believe he's at Stewart
8 anymore.

9 Q And where is he now?

10 A I don't know.

11 Q Do you know who's in charge of transferring
12 files back and forth to Iron Mountain and Stewart?

13 A I don't since I've left there. No.

14 Q Okay. So then at some point the file goes to
15 storage off site?

16 A Yes.

17 Q Who decides when it's time to shred it?

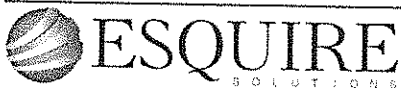
18 A I think it's just a housekeeping question --
19 where there is a legality involved I believe it's seven
20 years. We have to keep it for seven years.

21 Q Right. But does someone decide that all files
22 after a certain date are purged?

23 A Yes.

24 Q So --

25 A That's done within the main office.



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1 Q So would there be a message from Mike Greco to
2 Iron Mountain, Purge the following files?

3 A I'm not sure of how they did that actually.
4 Because I know before I left the company they were
5 starting to do that. But I don't know if they did that
6 in-house in Carmichael or if Iron Mountain did that.

7 Q All right.

8 A I wasn't a part of that part of the process.

9 Q And how do you know that the file's been
10 shredded?

11 A That's what I was told.

12 Q Okay.

13 A When I received phone calls from Norma -- I
14 called the office to find out where this file was, and I
15 was told. And I think Norma was told that it had been
16 shredded also.

17 Q So had Norma contacted the Carmichael office?

18 A I think -- I'm not sure if it was -- I say
19 Norma, but I'm assuming it was Norma. She talked to
20 somebody in my -- in the Roseville office. She was
21 talking to Debbie Shefke, which partners with
22 Nicole Miller, the escrow officers on here.

23 Q What was her name? Debbie what?

24 A Debbie, last name is S-h-e-k-f-e -- I'm sorry.
25 I said that wrong. It's S -- S -- I can't even say it.

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1 S-h-e-f-k-e, Shefke.

2 Q Okay. Have you talked to anyone to prepare
3 yourself for this depo, or have you talked to anyone
4 about this depo before you came in today?

5 A No. Well, let me back up.

6 Mr. Davenport was aware of it. I did talk to
7 him.

8 Q And who is Mr. Davenport?

9 A Oh. Clark Davenport. He's the county manager
10 for Stewart Title for Placer County and Sacramento
11 Counties.

12 Q All right.

13 A But there was no preparation done.

14 MR. HARRIS: And then, Craig, just so you know,
15 Norma called her I think two days ago to verify that she
16 was going to come up here, and I think she talked to her
17 a month or two ago about the facts.

18 THE WITNESS: Yes.

19 BY MR. DEMETRAS:

20 Q And how long ago did you hear that the file
21 was shredded?

22 A 'Oh. That would have been after the first
23 phone call from Norma. A couple months ago I would say.
24 That's just a guess though.

25 MR. HARRIS: Also, I think CitiMortgage tried to --

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1 I think CitiMortgage subpoenaed the documents, and I
2 think they were told that the documents had been
3 destroyed.

4 MR. McDERMOTT: I think that's right. Yeah.

5 MR. DEMETRAS: And when did you subpoena them?

6 MR. McDERMOTT: I'm not sure. I can let you know,
7 but I'm not entirely sure. I don't know -- I think we
8 subpoenaed Sierra Valley and the response to the
9 subpoena was from Stewart title. I don't think we
10 reached out to Iron Mountain.

11 MR. DEMETRAS: Oh, okay.

12 BY MR. DEMETRAS:

13 Q So not to keep beating the dead horse here.

14 But so you would have had a copy of the
15 original note in your file?

16 A Yes.

17 Q And the original note would have been at
18 CitiMortgage?

19 A I'm sorry. Are you talking about in the
20 original escrow file?

21 Q For the reconveyance.

22 A On the reconveyance.

23 Normally that original note is surrendered to
24 us if we're the trustee. Normal practice anyway.

25 Q But here you don't remember if that's true

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1 here?

2 A No. I don't remember signing this. So, no.

3 Q Is there ever a situation where you would --
4 where CitiMortgage would reconvey the lien, the deed of
5 trust but keep the note as an unsecured note?

6 A Not that I'm aware of.

7 Q So in your experience then a reconveyance, you
8 would have the note, the note would have been paid off
9 in full, and there would have been a request for
10 reconveyance before you signed this; is that true?

11 A Yes. Or the lender in this -- if we didn't
12 have a substitution of trustee would have just sent us a
13 full reconveyance to record. We wouldn't be aware of
14 what the terms are or if the note is still in effect or
15 any of that.

16 MR. DEMETRAS: Okay. That's all the questions I
17 have right now.

18 MR. HARRIS: Let's just take a quick break. Five
19 minutes, and then just wrap it up.

20 THE WITNESS: Okay.

21 (Brief recess taken.)

22

23 FURTHER EXAMINATION

24 BY MR. HARRIS:

25 Q Just a couple of clarifying points.

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1 A Yes.

2 Q On the full reconveyance, which is Exhibit 1,
3 on the escrow number it starts out, as you said, DG,
4 which is the Douglas location. And it says 54. And
5 then on the deed of trust it says 34.

6 What's the difference between 34 on the deed
7 of trust and 54 on the full reconveyance?

8 A The -- our computer system is probably the
9 difference. The 34 is what we were designated while we
10 were Sierra Valley Title.

11 Q Right.

12 A When it went to Stewart, even though we're
13 still doing a Sierra Valley reconveyance, it was
14 designated as 54.

15 Q Okay.

16 A So it was the computer thing.

17 Q Okay. So --

18 A As far as I remember.

19 Q So how would -- how would your office go about
20 recording a full reconveyance? Would you send it by
21 delivery, messenger to the title company? Do you have a
22 runner that works in-house? How would it happen?

23 A We have a courier. I'm sorry. We had a
24 courier -- or they have a courier. I'm not there. The
25 courier would take it directly up to the county.

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1 Q Okay. Sierra, slash, Stewart?

2 A Uh-huh. Yes. Yeah.

3 Q And do you know if they had any kind of -- did
4 these couriers have any kind of log-in system if they
5 got documents, would they give you receipts for it, or
6 would they just pick up the documents, no accounting for
7 them, and take them down to recording?

8 A They pick up the documents in a recording bag,
9 and then it goes up to -- it would go up to our Auburn
10 office -- I'm sorry -- not our Auburn office. The
11 Placer County Recorder's Office. We had a desk in there
12 with a person that would then take the documents and
13 physically record them at the counter.

14 Q Somebody from the county?

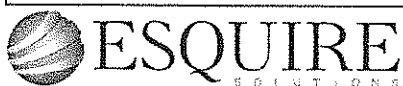
15 A Right.

16 Q Okay. When the county is recording -- when a
17 county employee is recording a full reconveyance, do
18 they have a process to check to see if the trustee
19 signing on the full reconveyance is, in fact, the
20 trustee of record?

21 A Not that I'm aware of. I don't believe so.

22 Q So as far as you know they don't have any sort
23 of cross-check to see if the trustees are one in the
24 same?

25 A Not that I know of.



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1 Q Okay. Do you know if -- do you know if
2 CitiMortgage would have recorded its own substitution of
3 trustee, or would they have asked you to record their
4 substitution of trustee?

5 A They could have recorded their own. It was
6 not uncommon of -- for institutional lenders to do that.

7 Q Had you ever done much CitiMortgage
8 recordations on CitiMortgage Loans, Citibank loans
9 before?

10 A I never did. No.

11 Q I think that's all I -- did you have -- oh.
12 You said you were -- the title -- your company
13 was paid a fee to do the full reconveyance?

14 A Uh-huh. Yes. It's -- it's standard practice
15 in the industry that there's a trustee fee collected for
16 preparing and recording a reconveyance.

17 Q Do you know how much that fee was?

18 A It used to be \$45.

19 Q Okay. Did you record in your branch office
20 the income and the expenditures for your office
21 location?

22 A No.

23 Q Who would record, let's say, this \$45 fee or
24 whatever the fee was to do the full reconveyance?

25 A That should have gone back to the original

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1 file.

2 Q Okay. And then from the original --

3 A So if it was done, it would have been done by
4 Nicole.

5 Q Okay. And then that would have somehow been
6 billed by Nicole on behalf of the title company?

7 A Well, it would have been -- it depends on
8 where -- I'm sorry. Let me back up.

9 When we received the documents, depending upon
10 where they come from, if it's another title company that
11 pays off the actual deed of trust and they send us the
12 documentation in order to reconvey it, they'll usually
13 send a check up front.

14 But if it's an institutional lender, sometimes
15 we would bill them, or not, and just not collect one.

16 Q Would there be any electronic records of in
17 this instance Citibank, CitiMortgage being billed for a
18 reconveyance?

19 A There might be an invoice in the file, but
20 nothing electronic.

21 Q Did -- would your office back in January of
22 2004 make a practice of scanning records into the
23 computer system?

24 A I don't believe we had a scanner then. So,
25 no.

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1 Q When do you think you had a scanner?

2 A I know we were using scanners when I left.
3 But it had been a few years that we had been using them,
4 so I don't even know exactly when. We were a little bit
5 behind in technology.

6 Q So you don't believe you had a scanner in 2004
7 available in your office?

8 A No.

9 Q And then I don't think I have -- one last
10 question.

11 A Yes.

12 Q And in your 25-year-plus title company
13 history, have you ever examined a recorded reconveyance
14 that was subsequently, after recordation, deemed to have
15 been altered in any way?

16 A No.

17 MR. HARRIS: I have nothing further.

18

19 FURTHER EXAMINATION

20 BY MR. McDERMOTT:

21 Q Just one question.

22 So for this reconveyance, assuming that there
23 was no substitution of trustee that subbed in,
24 Sierra Valley Title would have been the trustee?

25 A Yes.

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1 Q And assuming that Sierra Valley Title never
2 received the original note from Citi --

3 A Uh-huh. Yes.

4 Q -- would you agree that Sierra Valley Title
5 and you didn't have authorization to execute this
6 reconveyance?

7 A I'd rather not answer that. No. It sounds
8 like I don't have -- I didn't have authorization. I
9 don't know.

10 Q So you don't know if you -- if Sierra Valley
11 would or would not have authorization if it didn't have
12 those items?

13 A Right.

14 Q This is just assuming you didn't have those
15 items.

16 A Right. I wouldn't have signed one if it
17 didn't have those items.

18 Q And you wouldn't have signed it if you didn't
19 have those items because it's -- it was the business
20 norm, part of the industry that you have those items
21 before signing this?

22 A Absolutely.

23 Q But you don't know if you wouldn't be
24 authorized to sign it without those items?

25 A Right.



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1 MR. McDERMOTT: Okay.

2
3 FURTHER EXAMINATION

4 BY MR. DEMETRAS:

5 Q So you would be authorized to sign a
6 reconveyance if you didn't have those items? Is that
7 what you said?

8 A No. I --

9 Q Yeah. Sorry.

10 A I guess I did.

11 Q Yeah.

12 A I guess there could have been an instance
13 maybe if the main office said they've got documents. I
14 don't -- I don't recall anything like that though.

15 MR. HARRIS: Her words were, Does not know if
16 authorization to sign without these items.

17 THE WITNESS: Okay.

18 MR. HARRIS: She does not know if she had
19 authorization to sign without these items.

20 THE WITNESS: It was not a normal, common practice.
21 It would be -- it would be something unusual.

22 BY MR. DEMETRAS:

23 Q Could you sign this legally without those
24 items?

25 A I wouldn't sign it without the items.



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1 Q Okay.

2 A I mean I guess you could sign anything, but I
3 wouldn't, nor did I ever in 35 years in the business do
4 that.

5 MR. HARRIS: Thirty-five. Not -- sorry.

6 THE WITNESS: It was only 25 at Stewart.

7 MR. HARRIS: Anything else?

8 MR. McDERMOTT: I don't have anything.

9 THE REPORTER: Mr. Demetras, would you like a copy
10 of the transcript?

11 MR. DEMETRAS: Yes.

12 THE REPORTER: And, Mr. McDermott, would you like a
13 copy of the transcript?

14 MR. McDERMOTT: Yes, please.

15 (Deposition session concluded at 3:29 p.m.)

16 -oOo-

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DEPOSITION ERRATA SHEET

Our Assignment No.: 239769

Case Caption: In Re: Nathan L. Topol, debtor

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the _____ day of

_____, 20____.

Regina K. Garland



REGINA K. GARLAND
NATHAN L. TOPOL

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SIGNATURE: _____ DATE: _____
Regina K. Garland



REGINA K. GARLAND
NATHAN L. TOPOL

November 25, 2014
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DEPOSITION ERRATA SHEET

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SIGNATURE: _____ DATE: _____
Regina K. Garland



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REGINA K. GARLAND
NATHAN L. TOPOL

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1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF SACRAMENTO)

4 I, Mark S. Patterson, a licensed Certified
5 Shorthand Reporter, duly qualified and certified as such
6 by the State of California, do hereby certify:

7 That prior to being examined, the witness
8 named in the foregoing deposition was by me duly sworn
9 to testify to the truth, the whole truth, and nothing
10 but the truth;

11 That the said deposition was by me
12 stenographically recorded at the time and place first
13 herein mentioned; and the foregoing pages constitute a
14 full, true, complete and correct record of the testimony
15 given by said witness;

16 That I am a disinterested person, not being in
17 any way interested in the outcome of said action nor
18 connected with, nor related to any of the parties in
19 said action, or to their respective counsel, in any
20 manner whatsoever.

21 IN WITNESS WHEREOF, I have hereunto set my
22 hand this 4th day of December, 2014.

23 *Mark S. Patterson*

24 Mark S. Patterson, CSR No. 12432
25



EXHIBIT D

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Facsimile: (619) 590-1385

Attorneys for CitiMortgage, Inc.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA – RENO DIVISION

In re

NATHAN L. TOPOL,

Debtor.

Case No. 12-51014-btb

Chapter 7

**NOTICE OF INTENT TO SERVE
SUBPOENA ON NON-PARTY**

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that, on June 24, 2014, CitiMortgage, Inc., by and through undersigned counsel, will cause the attached subpoena to be served on Sierra Valley Title Company.

Respectfully submitted,

PITE DUNCAN, LLP

Dated: June 24, 2014

/s/ Eddie R. Jimenez

EDDIE R. JIMENEZ

Attorneys for CitiMortgage, Inc.

EXHIBIT E

Steve Harris

From: Eddie R. Jimenez <ejimenez@piteduncan.com>
Sent: Monday, June 30, 2014 3:32 PM
To: Steve Harris
Subject: RE: Nathan L. Topol Chapter 7 Case - Objection to CitiMortgage Proof of Claim
Attachments: Sierra Valley Title Subpoena.pdf

Hello Steve,

The subpoena is attached. Also, my hearing for tomorrow was continued to July 29th. If you are available, we can have lunch then. Talk to you soon.

Eddie R. Jimenez

Partner

Pite Duncan, LLP

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Direct Dial: (858) 750-7612

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Arizona | California | Hawaii | Idaho | Nevada | Oregon | Texas | Utah | Washington

From: Steve Harris [<mailto:steve@harrislawreno.com>]

Sent: Wednesday, June 25, 2014 4:04 PM

To: Eddie R. Jimenez

Subject: RE: Nathan L. Topol Chapter 7 Case - Objection to CitiMortgage Proof of Claim

Hi Eddie –

I note that you filed a Notice of Intent to Serve Subpoena on Non-Party (Doc. 905). The Subpoena that is referenced in the Notice was not attached to the filed Notice, so please provide me with a copy of that proposed Subpoena.

Thank you,
Steve

Stephen R. Harris, Esq.

Harris Law Practice LLC

6151 Lakeside Drive, Suite 2100

Reno, NV 89511

775-786-7600

steve@harrislawreno.com

From: Eddie R. Jimenez [<mailto:ejimenez@piteduncan.com>]

Sent: Wednesday, June 25, 2014 12:40 PM

To: Steve Harris

Subject: RE: Nathan L. Topol Chapter 7 Case - Objection to CitiMortgage Proof of Claim

B257 (Form 257 - Subpoena to Produce Documents, Information, or Objects or To Permit Inspection in a Bankruptcy Case or Adversary Proceeding) (12/13)

UNITED STATES BANKRUPTCY COURT

District of Nevada

In re Nathan Topol

Debtor

(Complete if issued in an adversary proceeding)

Case No. 12-51014-btb

Chapter 7

Plaintiff

v.

Adv. Proc. No.

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Sierra Valley Title Company

(Name of person to whom the subpoena is directed)

☒ **Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

PLACE

4375 Jutland Drive, San Diego, CA 92117

DATE AND TIME

July 8, 2014

☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE

DATE AND TIME

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)

CitiMortgage, Inc., who issues or requests this subpoena, are:

Pite Duncan, LLP c/o Eddie R. Jimenez, 4375 Jutland Dr., Suite 200, San Diego, CA 92117, ejimenez@piteduncan.com (858) 750-7612

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

B257 (Form 257 - Subpoena to Produce Documents, Information, or Objects or To Permit Inspection in a Bankruptcy Case or Adversary Proceeding) (Page 2)

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

ATTACHMENT A

DEFINITIONS

1. "YOU," "YOUR," and "YOURS" shall mean SIERRA VALLEY TITLE COMPANY, and agents, representatives, or any other persons and/or entities SIERRA VALLEY TITLE COMPANY is acting on behalf of or person and/or entity acting on SIERRA VALLEY TITLE COMPANY's behalf.

2. "CITI" shall mean CITIMORTGAGE, INC., CITIBANK, F.S.B., CITIBANK SERVICE CORP., and all successors, assigns, attorneys, agents, employees, representatives, or any other persons acting on its behalf.

3. The term "PROPERTY" shall refer to the property commonly known as 4250 West Lake Boulevard, Homewood, CA 96141.

4. The term "NOTE" shall refer to the promissory note executed by NATHAN L. TOPOL on or about October 9, 2002, in the principal amount of \$5,500,000.00 in favor of Citibank, F.S.B.

5. The term "DEED OF TRUST" shall refer to the Deed of Trust executed by NATHAN L. TOPOL on or about October 9, 2002, securing the NOTE and recorded in Placer County on October 16, 2002, as document number 2002-0125157. A copy of the recorded Deed of Trust attached hereto as **Exhibit 1**.

6. The term "SUBJECT LOAN" or "LOAN" shall refer to the loan NOTE executed by NATHAN L. TOPOL and the DEED OF TRUST executed by NATHAN L. TOPOL on October 16, 2002, and defined herein.

7. The term "DOCUMENTS" as used herein shall be deemed to mean, without limitation, all papers, notes, records, electronically stored information, e-mails, facsimile, films, photographs, recordings, tapes, transcriptions, books, and other things, whether or not in your possession or under your control, directly or indirectly relating to or pertaining in any way to the subject matters addressed in these interrogatories, and including, but not limited to, all originals,

copies, or other reproductions, whether prepared by handwriting, typewriting, printing, photostating, photographing, electronically stored, or any other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or any combination thereof.

8. “IDENTIFY”, when used with respect to a person or entity, shall mean to state the person’s or entity’s

- a. Full name;
- b. Occupation, or business type if an entity;
- c. Last known business address and telephone number; and
- d. Last known residential address and telephone number.

9. “IDENTIFY”, when used to “identify” or for “identification” of a document, shall mean to state that document’s:

- a. Date;
- b. Its author, signer, or signers;
- c. Its addressees;
- d. The form of the document;
- e. Its substance; and
- f. Its present or last-known location and custodian. If any such document was, but is no longer in your possession or control, state what disposition was made of it, the date of the same thing, and the reason for such disposition.

10. “RELATING TO” and “REFERRING” means mentioning, discussing, evidencing, summarizing, describing, referring to, depicting, embodying, constituting, reporting or in any way involving.

11. "ALL" and "ANY" shall mean "any and all" and "each and every.

YOU ARE COMMANDED to produce any and all documents referring and/or relating to the real property located at 4250 West Lake Boulevard, Homewood, CA 96141 (the "Property"). A copy of the recorded Deed of Trust attached hereto as **Exhibit 1**:

1. Identify all documents and/or information referring and/or relating to:
 - a. Documents from Citi referring and/or relating to the Property;
 - b. Documents to Citi referring and/or relating to the Property;
 - c. All documents referring and/or relating to the Loan;
 - d. All documents referring and/or relating to authorization from Citi or the appointment by Citi of a substitute trustee for Deed of Trust;
 - e. All documents referring and/or relating to the substitution of trustee for the Deed of Trust;
 - f. All documents referring and/or relating to Nathan L. Topol;
 - g. All documents referring and/or relating to Sierra Valley #34-506527 NM;
 - h. All documents referring and/or relating to Escrow No. DG-54506527-NM;
 - i. Identify all Sierra Valley Title Company employees, past or present, that worked on any documents regarding the Property;
 - j. All documents referring and/or relating to Regina Kay Krahn;
 - k. All documents referring and/or relating to Regina Kay Krahn's authority to sign the Full Reconveyance recorded in Placer County on January 12, 2004, as document number 2004-002629. A copy of the recorded Full Reconveyance attached hereto as **Exhibit 2**;
 - l. All documents referring and/or relating to Cari Lemos as the notary who signed the Full Reconveyance attached hereto as **Exhibit 2**;
 - m. All documents referring and/or relating to the Full Reconveyance attached hereto as **Exhibit 2**;

n. Identify all Sierra Valley Title Company employees, past or present that were associated with the Property.

o. All documents referring and/or relating to any request to reconvey the Deed of Trust;

p. Identify all documents referring and/or relating to any Citi employees and/or persons associated with Citi or acting on behalf of Citi with whom Citi Sierra Valley Title Company interacted in any way with in relation to the loan or any other loans associated with Nathan L. Topol;

q. All documents referring and/or relating to any request from Citi to reconvey the Deed of Trust;

r. All documents prepared by the law firm of Jones Vargas referring and/or relating to the Loan

In the event that you do not have any records for the Property or any responsive information/documents to the above requests, please provide:

s. A written statement that you have no records referring or relating to the Property;

t. A written statement that you have no records and/or information from Citi requesting the reconveyance of the Deed of Trust.



PLACER, County Recorder
JIM MCCAULEY Co Recorder Office
DOC- 2002-0125157

Check Number 1133009
Wednesday, OCT 16, 2002 09:16:41
REC \$17.00 MIC \$3.00 AUT \$15.00
SBS \$14.00
Ttl Pd \$49.00

Nbr-0000708874
rec/R2/1-15

Sierra Valley #34-506527 NM

Recordation Requested by:
Citibank, F.S.B.
12855 North Outer Forty Drive
Saint Louis, MO 63141

When Recorded Mail to:
Citibank, F.S.B.
c/o CitiMortgage, Inc.
P.O. Box 9206, MS 81026
Farmington Hills, MI 48333-9206
Send Tax Notices to:
Citibank, F.S.B.
P.O. Box 790009
Saint Louis, MO 63141

REDACTED

[Space Above This Line For Recording Data]

Loan No: REDACTED

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated October 9, 2002, together with all Riders to this document.
- (B) "Borrower" is Nathan L. Topol, a married man as his sole and separate property. Borrower is the trustor under this Security Instrument.
- (C) "Lender" is Citibank, F.S.B.. Lender is a Savings Bank organized and existing under the laws of the United States. Lender's address is 1 Court Square, Floor 20, Long Island City, NY 11120. Lender is the beneficiary under this Security Instrument.
- (D) "Trustee" is Citibank Service Corp, A California Corporation.
- (E) "Note" means the promissory note signed by Borrower and dated October 9, 2002. The Note states that Borrower owes Lender Five Million Five Hundred Thousand Dollars (U.S. \$5,500,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than November 1, 2032.

NTS

- (F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
 (G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
 (H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower:

☒ Adjustable Rate Rider
☐ Balloon Rider
☐ 1-4 Family Rider

☐ Condominium Rider
☐ Planned Unit Development Rider
☐ Biweekly Payment Rider

☐ Second Home Rider
☐ Other(s):

- (I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
 (J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
 (K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
 (L) "Escrow Items" means those items that are described in Section 3.
 (M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
 (N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
 (O) "Periodic Payment" means the regularly scheduled amount due for: (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.
 (P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.
 (Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of PLACER, California:

See Attached Legal

which currently has the address of 4250 West Lake Boulevard, Homewood, CA 96141 ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to

pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender selection to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

24. Substitute Trustee. Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

25. Statement of Obligation Fee. Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

Nathan L. Topol (Seal)
Nathan L. Topol -Borrower

GOVERNMENT CODE 27361.7
I certify under penalty of perjury that the notary seal reads as follows:
Name of Notary Louise Ann Hoyer Barnes
Date Commission Expires 4-14-03 Commission #
County of Commission Washoe Mfg. ID. #
State of Commission NV
Signature [Signature]
10/15/02 (Firm name, if any)
Roburn, G

[Space Below This Line For Acknowledgment]

CERTIFICATE OF ACKNOWLEDGMENT

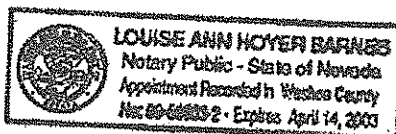
STATE OF Nevada
COUNTY OF Washoe

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) SS
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On October 9, 2002, before me, Louise Ann Hoyer Barnes, personally appeared Nathan L. Topol, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature [Signature]



(Seal)

CALIFORNIA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

C3005 - 01/11/2001 [REDACTED] 6827]

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Form 3005 1/01
Initials: NT

EXHIBIT 1

Loan No.: REDACTED

FIXED/ADJUSTABLE RATE RIDER
(One-Year Treasury Index - Rate Caps)

THIS FIXED/ADJUSTABLE RATE RIDER is made this Ninth day of October, 2002, and is incorporated into and shall be deemed to amend and supplement the Mortgage, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to Citibank, F.S.B. ("Lender") of the same date and covering the Property described in the Security Instrument and located at:

4250 West Lake Boulevard, Homewood, CA 96141
[Property Address]

THE NOTE PROVIDES FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial fixed interest rate of 5.375%. The Note provides for changes in the initial fixed rate to an adjustable interest rate, as follows:

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of November, 2007, and the adjustable interest rate I will pay may change on that day every 12th month thereafter. The date on which my initial fixed interest rate changes to an adjustable interest rate, and each date on which my adjustable interest rate could change, is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my adjustable interest rate will be based on an Index. The "Index" is the weekly average yield on United States Treasury securities adjusted to a constant maturity of one year, as made available by the Federal Reserve Board. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two & 875/1000 percentage points (2.875%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 7.375% or less than 3.375%. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than two percentage points from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than 10.375%.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my initial fixed interest rate to an adjustable interest rate and of any changes in my adjustable interest rate before the effective date of any change. The notice will include the amount of my monthly payment, any information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument shall be in effect as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument described in Section B1 above shall then cease to be in effect, and the provisions of Uniform Covenant 18 of the Security Instrument shall be amended to read as follows:

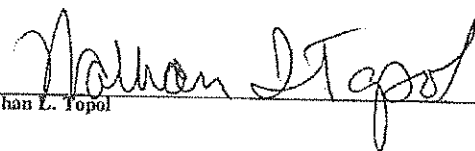
Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Fixed/Adjustable Rate Rider.


 Nathan L. Topol (Seal)
 -Borrower

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EXHIBIT "A"

The land referred to in this Report is situated in the State of California, County of Placer, and is described as follows:

PARCEL ONE:

Beginning at the Southwest corner of the parcel described hereby, a point on the Easterly line of the California State Highway, said point being identical with the Northwest corner of the property described in that certain Deed to Rhoades, recorded in Volume 882, at page 24 of the Official Records of Placer County, and from said point, the stump of a fir tree marking the meander corner common to fractional Section 36, Township 15 North, Range 16 East, MDB&M and fractional Section 1, Township 14 North, Range 16 East, MDB&M, bears the following two consecutive courses: (1) South 02°39'40" West 160.00 feet and (2) South 07°40'40" West 1628.64 feet; thence along the Easterly line of the California State Highway on the following two consecutive courses: (1) North 02°39'40" for a distance of 98.99 feet, and (2) along the arc of a curve to the right having a radius of 3460 feet, through an angle of 02°54'53" for a distance of 176.01 feet (said arc being represented by the chord of North 04°07'06.5" East 176.00 feet); thence South 75°07'35" East 338.00 feet; thence South 31°54'39" West 225.00 feet to a point on the North line of the parcel described in the above mentioned Deed to Rhoades; thence North 89°09'10" West along said North line for a distance of 225.00 feet to the point of beginning.

PARCEL TWO:

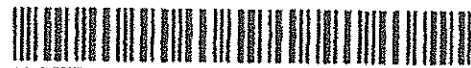
All that certain strip of land which lies between the East line of the above described parcel and the low water of Lake Tahoe and is bounded by the Easterly extensions of the Northerly and Southerly lines of said parcel.

APN: 085-250-008

15

RECORDING REQUESTED BY:
SIERRA VALLEY TITLE COMPANY
AND WHEN RECORDED MAIL TO:

CITIBANK, FSB C/O CITIMORTGAGE, INC.
PO BOX 9206, MS 81026
FARMINGTON HILLS, MI 48333-9206



PLACER, County Recorder

JIM MCCAULEY

DOC- 2004-0002629

Acct 77-SIERRA VALLEY TITLE

Monday, JAN 12, 2004 08:00:00

REC \$3.00 MIC \$3.00 AUT \$1.00

SBS \$0.00

Ttl Pd \$7.00

Nbr-0001008257

slk/SK/1-1

THIS SPACE FOR RECORDER'S USE ONLY:

ESCROW NO. DG-54506527-NM

TITLE ORDER NO. 506527

FULL RECONVEYANCE

SIERRA VALLEY TITLE COMPANY, a Corporation, Trustee under the Deed of Trust executed by
NATHAN L. TOPOL, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY

Trustor, and recorded DECEMBER 16, 2002 as Serial No. 2002-0125157 in Book n/a, Page n/a, of Official Records in the Office of the County Recorder of Placer County, California, having been requested in writing by the holder of the obligation secured by said Deed of Trust, to reconvey the estate granted to Trustee under said Deed of Trust, does hereby reconvey to the person or persons legally entitled thereto, without warranty, all the estate, title and interest acquired by Trustee under said Deed of Trust in the lands therein described, situated in the County of Placer, State of California reference being hereby specifically made to said Deed of Trust and the record thereof for a particular description of said lands.

IN WITNESS WHEREOF, said SIERRA VALLEY TITLE COMPANY, Trustee, has caused its corporate name and seal to be hereto affixed by its Assistant Secretary, thereunto duly authorized.

DATED January 2, 2004

STATE OF CALIFORNIA

COUNTY OF Placer

On January 6, 2004

before me, Cari Lemos

a Notary Public in and for said State, personally appeared

Regina Kay Krahn

SIERRA VALLEY TITLE COMPANY

BY: Regina Kay Krahn

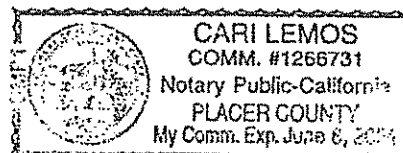
REGINA KAY KRAHN, ASSISTANT SECRETARY

BY:

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Cari Lemos



(This area for official notarial seal)

EXHIBIT F

Steve Harris

From: Steve Harris
Sent: Friday, September 05, 2014 2:08 PM
To: ejimenez@piteduncan.com
Cc: wdg@renotrustee.com
Subject: Nathan Topol/ CitiMortgage
Attachments: doc01781620140905130054.pdf

Hi Eddie --

Please see enclosed letter for your immediate review.

Thank you,
Steve

Stephen R. Harris, Esq.

Harris Law Practice LLC

6151 Lakeside Drive, Suite 2100

Reno, NV 89511

775-786-7600

steve@harrislawreno.com

HARRIS LAW PRACTICE, LLC

ATTORNEYS AND COUNSELORS AT LAW

6151 Lakeside Drive, Suite 2100

Reno, Nevada 89511

(775) 786-7600

steve@harrislawreno.com

STEPHEN R. HARRIS
LICENSED IN NEVADA

CHRIS D. NICHOLS
OF COUNSEL
LICENSED IN NEVADA & UTAH

September 4, 2014

Via email ejimenez@piteduncan.com

Eddie R. Jimenez, Esq.

Pite Duncan, LLP

4375 Jutland Drive, Suite 200

San Diego, CA 92117

Re: Nathan L. Topol – Chapter 7 case / CitiMortgage Claim Objection

Dear Eddie:

I am in receipt of the documents produced by CitiMortgage in response to the Subpoena issued by the Trustee on February 25, 2014. In that regard, I note that it is clear that all of the basic loan documents were not provided by CitiMortgage. We are aware that there were at least two loan modifications after the initial loan was made, and yet the loan modification documents were not provided other than one "Loan Modification Notice". None of the escrow instructions are included either, nor are other basic documents that would normally be part of a loan file. I trust that CitiMortgage will fully comply with the Subpoena by producing all of the loan documents as requested.

I also note that we were provided with loan "system notes" from September 19, 2007 through the present, but all loan notes from the inception of the loan through September 2007 were not provided. Emails were provided from late 2011 through the present, but there was absolutely no correspondence provided for any time periods prior to that time. A payment register was provided commencing March 3, 2007, but this loan was incurred on October 16, 2002. Where are the payment records for October 2002 through March 2007?

There is also some text that has been redacted in several places from the "system notes" after the current principal balance of \$5,527,893.75 is stated. The text that was redacted from those system notes in those instances are not part of any privileged communication with an attorney, so why was the text redacted? Please provide us with unredacted documents that include that text. I have attached the documents with the questionable redaction for your review.

It also appears that there was a junior HELOC also held by Citibank at the time the original loan was made to Nathan Topol in October 2002, and the HELOC was subordinated to CitiMortgage's new first priority deed of trust. The Trustee is going to issue another Subpoena to request information on that loan, and may also request additional documents or information from CitiMortgage. Will you agree to accept service on behalf of Citibank/ CitiMortgage in that regard?

Lastly, CitiMortgage filed a notice several weeks ago that it intended to serve a Subpoena on Sierra Valley Title Company. If that Subpoena was ever served, can you please provide us with copies of all documents you received in response to that Subpoena.

Eddie R. Jimenez, Esq.
September 4, 2014
Page 2

Thank you. We appreciate the documents that were provided by CitiMortgage thus far, but they are woefully incomplete relative to the scope of the Subpoena and the loan that the Subpoena addresses. I appreciate your cooperation in this matter. As you recall, the evidentiary hearing on the Trustee's objection to CitiMortgage's claim is scheduled for January 15 and 16, 2015, so the Trustee requires timely compliance of any discovery requests. If we have any discovery disputes that need to be addressed, please let me know and we can arrange to bring the matter to Judge Beesley orally as he requested that we do.

Very truly yours,

/s/ Stephen R. Harris

STEPHEN R. HARRIS, ESQ.

SRH/ng
cc: W. Donald Gieseke, Trustee (via email)

EXHIBIT G

Steve Harris

From: Eddie R. Jimenez <ejimenez@piteduncan.com>
Sent: Wednesday, September 10, 2014 3:57 PM
To: Steve Harris
Cc: wdg@renotrustee.com
Subject: RE: Nathan Topol/ CitiMortgage
Attachments: doc01781620140905130054.pdf

Steve,

As you know, Judge Beesley ordered Citi to respond to the subpoena with the information that it had readily available. Accordingly, Citi provided information that it had available from 2007 to present. Citi believes that it has complied with the subpoena and with Judge's order, however, Citi is still in the process of attempting to obtain records from twelve years ago and will provide the responsive documents, if any, when available. I will follow up with my client regarding its efforts to obtain information from 2002 and provide a further status after I hear back from my client.

In your letter, you state that you "are aware that there were at least two loan modifications after the initial loan was made..". Please advise the dates of the loan modifications so I can confirm with my client and request the information.

The redacted text is protected by the word product privilege and is my client's internal impressions regarding the value of the property. Although privileged, I will inquire with my client if it is willing to waive the privilege and provide unredacted copies of the documents.

Please advise the relevance the HELOC referenced in your letter has to the Trustee's objection to claim? At this time, I am not authorized to accept service on behalf of Citi. However, if the Trustee does issue a subpoena on Citi, please provide me a courtesy copy. In the meantime, I will inquire into whether I am authorized to accept service on Citi's behalf.

The subpoena was served on Sierra Valley Title Company and I was advised that all records have been purged.

As for the scheduling order, I will also discuss with my client. However, working backwards from the evidentiary hearing date, we may not have enough time to conduct thorough discovery and also file dispositive motions prior to the evidentiary hearing dates of January 15th and 16th. I would like at least 60 to 90 days to complete discovery and then possibly file a motion for summary judgment prior to the evidentiary hearing. With a motion for summary judgment requiring thirty (30) days notice, I don't believe we will have enough time with the current schedule. It may be necessary to push the evidentiary hearing back to the end of February or March 2015. I will discuss with my client, but I wanted you to know my thoughts on the current time frame we are working under.

I look forward to hearing back from you regarding the requested loan modification dates and the relevance of the HELOC referenced in your letter to the Trustee's objection to claim.

Eddie R. Jimenez

Partner

Pite Duncan, LLP

Main Office: (858) 750-7600

Direct Dial: (858) 750-7612

Direct Fax: (619) 590-1385

ejimenez@piteduncan.com

www.piteduncan.com

Arizona | California | Hawaii | Idaho | Nevada | Oregon | Texas | Utah | Washington

From: Steve Harris [<mailto:steve@harrislawreno.com>]

Sent: Friday, September 05, 2014 2:08 PM

To: Eddie R. Jimenez

Cc: wdg@renotrustee.com

Subject: Nathan Topol/ CitiMortgage

Hi Eddie –

Please see enclosed letter for your immediate review.

Thank you,
Steve

Stephen R. Harris, Esq.

Harris Law Practice LLC

6151 Lakeside Drive, Suite 2100

Reno, NV 89511

775-786-7600

steve@harrislawreno.com

Visit our website at www.piteduncan.com

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Federal law requires us to notify you that this communication is from a debt collector. Our office is attempting to collect a debt and any information obtained will be used for that purpose. However, if you are in an active bankruptcy case and/or received a bankruptcy discharge enjoining enforcement of your personal liability for this debt, our firm is not attempting to collect a debt from you personally on our client's behalf but may be entitled to pursue enforcement of our client's lien against their collateral to the extent permitted under applicable law. All included information is proprietary and confidential and is for the use of the intended recipient only.